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December 17, 1993

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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WHO: 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.

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(TWO BRIEFINGS)

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Title 3—

The President

Proclamation 6639 of December 14, 1993

National Firefighters Day, 1993

By the President of the United States of America

A Proclamation

This year our Nation's firefighters will respond to more than 2,300,000 fires and 8,700,000 additional emergencies. They will, as they do every year, save thousands of lives and millions of dollars worth of property through their dedicated efforts. Their job is, by far, one of the Nation's most dangerous, and their sacrifices are many.

In an average year, 110 firefighters are killed in the line of duty. Fully 50 percent of all firefighters are injured in valiant service each year. Although the work of these brave men and women is not often adequately recognized, they are quite often the very first people we can expect to respond—day or night—when the safety of our lives or our homes is in jeopardy.

At a time when our Nation is rededicating itself to the idea of caring for others, it is important that we recognize those who daily risk—and sometimes forfeit—their lives to help their fellow Americans. Our Nation offers special thanks to its firefighters on December 15th, "National Firefighters Day." Let this be a day to remember the men and women who protect us and who have given their lives in the line of duty. They all are heroes. By honoring them, we pay special tribute to the spirit of community and unselfishness that is such an integral part of their character. Firefighters are inspirational examples for all of us and are worthy of our highest praise for their tireless devotion to fulfilling their sacred responsibilities to society.

Let us also thank the generous members of the many organizations that constantly work toward the mutual goals of firefighter health and safety.

To enhance public awareness of the courage and supreme devotion of our Nation's firefighters, the Congress, by House Joint Resolution 272, has designated December 15, 1993, as National Firefighters Day, and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim December 15, 1993, as National Firefighters Day. I call upon all public officials and the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-30976
Filed 12-15-93; 2:01 pm]
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Presidential Documents

Proclamation 6640 of December 15, 1993

Modification of Import Limitations on Certain Dairy Products

By the President of the United States of America

A Proclamation

1. Quantitative limitations on imports of certain dairy products established pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) (the "Act"), are set forth in subchapter IV of chapter 99 of the Harmonized Tariff Schedule of the United States ("HTS").

2. In accordance with section 22 of the Act, the Secretary of Agriculture advised the President that he has reason to believe that changed circumstances exist with respect to the product coverage of the import quota for malted milk and articles of milk or cream, and that changed circumstances exist with respect to the import quota licensing requirement for dried cream and for malted milk and articles of milk or cream. The Secretary further advised that circumstances exist that require restoration of the quota treatment for margarine cheese that existed prior to the conversion of the Tariff Schedules of the United States to the HTS. Furthermore, the Secretary advised that circumstances exist that require that U.S. Note 3(a)(iii) to subchapter IV of chapter 99 of the HTS be clarified with respect to the term "other" countries as it appears in the subheadings subject to the provisions of such note.

3. Based upon this advice, the President directed the United States International Trade Commission (the "Commission") to initiate an investigation under section 22(d) of the Act (7 U.S.C. 624(d)) to determine whether the HTS should be modified with respect to: (a) the exclusion of cajeta not made from cow's milk, provided for in subheading 1901.90.30 of the HTS, from the quota on malted milk and articles of milk or cream; (b) the exclusion of inedible dried milk powders used for calibrating infrared milk analyzers, provided for in subheading 0404.90.20 of the HTS, from the quota on malted milk and articles of milk or cream; (c) the inclusion of margarine cheese, provided for in subheading 1901.90.30 of the HTS, under the quota for low-fat cheese, and the exclusion of margarine cheese from the quota on malted milk and articles of milk or cream; (d) the elimination of the import quota licensing requirement for dried cream and malted milk and articles of milk or cream; and (e) the modification of U.S. Note 3(a)(iii) to subchapter IV of chapter 99 of the HTS to clarify the term "other" countries as it appears in the subheadings subject to the provisions of such note.

4. After reviewing the facts and taking into account the report of the Commission based upon the investigation which it conducted, I have determined that the circumstances which required that cajeta not made from cow's milk and inedible dried milk powder used for calibrating infrared milk analyzers be included in the coverage of the quota for malted milk and articles of milk or cream no long exist. I have also determined that changed circumstances exist which require the elimination of the import quota licensing requirement for dried cream and for malted milk and articles of milk or cream. Furthermore, I have determined that changed circumstances exist which require that the HTS be modified with respect to the quota classification of margarine cheese, and that require the modification of U.S. Note 3(a)(iii) to subchapter IV of chapter 99 of the HTS to clarify the term

"other" countries as it appears in the subheadings subject to the provisions of such note.

5. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), confers authority upon the President to embody in the HTS the substance of relevant provisions of that Act, of other Acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 22 of the Agricultural Adjustment Act of 1933, as amended, and section 604 of the Trade Act of 1974, as amended, do hereby proclaim that:

(1) The HTS is modified as provided in the annex to this proclamation.

(2) The modifications made by this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on and after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

Billing code 3195–01–P

ANNEX

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on and after the date of publication of this proclamation in the Federal Register, the HTS is modified as follows:

1. Subheading 9904.10.57 is modified by inserting after the parenthetical expression the following: ", and margarine cheese, provided for in subheading 1901.90.30".

2. Subheading 9904.10.60 is modified by striking out the word "and" immediately before "(d)" and by inserting after the expression "ice cream" the following: ", (e) cajeta not made from cow's milk, (f) inedible dried milk powders certified to be used for calibrating infrared milk analyzers, and (g) margarine cheese".

3. Subdivision (a)(i) of U.S. Note 3 to subchapter IV of chapter 99 is modified to read as follows:

"(i) Imported articles subject to the import quotas provided for in subheadings 9904.10.09 through 9904.10.57, except 9904.10.15 and 9904.10.24, may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture, and only in accordance with the terms of such license; except that no such license shall be required for up to 833,417 kilograms per quota year of natural Cheddar cheese, the product of Canada, made from unpasteurized milk and aged not less than 9 months, which prior to exportation has been certified to meet such requirements by an official of the Canadian Government. Such licenses shall be issued under regulations of the Secretary of Agriculture which the Secretary determines will, to the fullest extent practicable, result in the equitable distribution of the respective quotas for such articles among importers or users and facilitate the utilization of the quotas by the supplying countries, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned."

4. Subdivision (a)(iii) of U.S. Note 3 to subchapter IV of chapter 99 is modified to read as follows:

"(iii) Notwithstanding any other provision of this subchapter, if the Secretary of Agriculture determines that a quantity specified in the column entitled "Quota Quantity" opposite the name of any country is not likely to be entered from such country within any calendar year, the Secretary may provide with respect to such article for the adjustment for that calendar year, within the aggregate quantity of such article permitted to be entered from all countries during such calendar year, of the quantities of such article which may be entered during such year from the countries specified as countries of origin for such article. Whenever the designation "Other" appears after named countries in subheadings 9904.10.03 through 9904.10.81, unless the quota quantity appearing opposite such designation is "None", the Secretary of Agriculture may include that designation in any adjustment of quota quantities. The Secretary of Agriculture shall notify the Secretary of the Treasury of such adjustment and, with respect to country of origin adjustments for any article for which a license is not required, file notice thereof with the Federal Register. With respect to articles for which a license is not required, such adjustment shall become effective 3 days after the date of publication in the Federal Register."

[FR Doc. 93-31007
Filed 12-15-93; 4:41 pm]
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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1946 and 1980

RIN 0575–AB51

Implementation of Sections 18 and 22 of the Agricultural Credit Improvement Act of 1992

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its direct and guaranteed Farmer Program loan regulations to conform to provisions of the Agricultural Credit Improvement Act of 1992. This action will modify regulations affecting the Agency's debt service margin requirements for guaranteed loans and the Agricultural Loan Mediation Program matching grant authority. The intended effect is to encourage greater participation by borrowers and lenders in the guaranteed loan program, and alleviate States' financial burdens imposed by loan mediation programs. Additionally, FmHA amends its interim rule published February 28, 1991, in the **Federal Register** (56 FR 8258–8272) with a change based upon the public comments received on the interim rule regarding the level of need for subsidy. It is necessary to make this change in order to implement the capital replacement margin in a workable manner. Further changes in the Interest Assistance program, based on other comments will be made and published as a final rule.

DATES: Interim rule effective on December 17, 1993. Written comments must be submitted on or before February 15, 1994.

ADDRESSES: Submit written comments, in duplicate, to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steven K. Ford, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Building, 14th and Independence Avenue SW., Washington, DC 20250, telephone (202) 690–0451.

Paperwork Reduction Act

The information collection requirements contained in 7 CFR 1946–A and 7 CFR 1980–A have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507), and have been assigned OMB control numbers 0575–0125 and 0575–0024. The revised information collection contained in 7 CFR 1980–B will not become effective until approved by OMB. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, FmHA, Ag Box 0743, Washington, DC 20250.

SUPPLEMENTARY INFORMATION:

Classification

This interim rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of $100 million or more.

Summary of Regulatory Impact Analysis

Adoption of the Capital Replacement and Term Debt Repayment Margin and the Term Debt and Capital Lease Coverage Ratio to replace the Agency's Debt Service Margin will have a favorable overall impact on FmHA, lenders, and the borrowing public. There may be a slight increase in the Agency's exposure to default risk. However, the increased risk must be measured against the need to make guarantees available to more farmers and to move the Agency closer to industry standards.

Raising the percentage of State mediation program costs that may be subsidized will result in a moderate cost to the Agency, and, if the appropriation is not adjusted accordingly, may result in a shortfall of funding authority.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Operating Loans and Farm Ownership Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. However, the Soil and Water Loan Program is subject to the provisions of Executive Order 12372.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans (SW Loans)

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion of the Interim Rule

The purpose of this interim rule is to conform FmHA regulations to the requirements of section 339(b) of the Consolidated Farm and Rural Development Act (CONACT) and section 502 of the Agricultural Credit Act of 1987, as amended by sections 18 and 22 of the Agricultural Credit Improvement Act of 1992. The 1992 Act required FmHA to publish these changes as interim rules no later than 180 days after the date of enactment.

Background

The Agricultural Credit Improvement Act of 1992 required a number of changes to Farmers Home Administration (FmHA) regulations governing the approval and servicing of Farmer Program loans made and guaranteed by the Agency. The number and variety of the required revisions could delay publication if they were issued together as one entry in the **Federal Register**. Therefore, FmHA is publishing them in several separate entries.

Discussion of Comments

A change is made in the method used to determine the level of need for interest assistance as a result of comments on the interim rule, in order to implement provisions of the capital replacement margin in a workable manner when applied to interest assistance determinations. Under the interim rule, the level of interest assistance to be received is determined and set at .25 percent increments. Of the 179 comments received, 114 commentors objected to the use of the .25 percent increments. Commentors cited the complexity of the needs test to implement these .25 percent increments as a deterrent to use of the program. In considering the interrelationship between the capital replacement margin provisions and the interest assistance needs test, the Agency realized that it would have to develop an additional formula in order for the needs test to work properly with the capital replacement margin provisions. This would make the needs test even more complicated than the one found in the interim rule. Obviously, this was an unacceptable result.

Eighty-seven commentors suggested that increments of 1 percent be used, 25 recommended that all recipients of interest assistance receive the 4 percent subsidy, and 2 commentors suggested a 2 percent increment. The Agency concedes that usually farm budgets cannot be calculated to be as precise as the .25 percent increment requires and implies. Besides, the rate of subsidy has remained near 3.6 percent since the program was implemented, thus determining a level of assistance based upon .25 increments created more work for very little savings to the Government in the amount of interest assistance granted. For all these reasons, the Agency, therefore, has adopted the recommendation to determine eligibility for interest assistance, and, once the need is established, to set the level at 4 percent. The 4 percent method will simplify the program, including the interrelationship with the capital replacement provisions, and will reduce the paperwork for the lender, the loan applicant and FmHA.

Changes Included in the Interim Rule

This interim rule deals with the following requirements of the Act:

Section 18 Debt Service Margin Requirements (CONACT § 339)

This Section, in part, mandates FmHA to revise its debt service margin requirements on guaranteed loans to take into account the expense of replacing capital items after depreciation. To meet this requirement, FmHA is adopting two measures of the borrower's ability to replace depreciated capital assets. These measures are called the Capital Replacement and Term Debt Repayment Margin and the Term Debt and Capital Lease Coverage Ratio. The Capital Replacement and Term Debt Repayment Margin measures the ability of the operation to generate funds necessary to repay debts with maturity dates longer than one year and to replace capital assets. The Term Debt and Capital Lease Coverage Ratio measures the amount of funds available to the farming operation for the replacement of depreciated capital assets and for growth after paying all farm operating costs, family living expenses, and principal and interest payments on debts.

In choosing these standards, the Agency felt it essential to use analysis tools that were consistent with those customarily used by the lending industry. In the past, private lenders participating in FmHA's guaranteed loan programs have complained that the criteria used by the Agency to evaluate credit quality have little in common with criteria used by most agricultural lenders. Lenders have also charged that FmHA's credit quality criteria results in inconsistent evaluation of risk, depending on the type of farming operation. These problems have been cited by many lenders as substantial disincentives for applying for loan guarantees.

In addition, the Agency took into consideration Section 331F of the CONACT (7 U.S.C. 1981(f)) which requires FmHA to "* * * use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector."

The Agency reviewed the recommendations of the Farm Financial Standards Task Force (FFSTF), a project with the participation of some of the Nation's foremost authorities on agricultural credit. FFSTF published a set of guidelines reflecting current practices in the industry and intended to help establish uniform methods among agricultural lenders for analyzing financial risk.

FmHA consulted with private lenders, the academic community, and other financial experts and considered the FFSTF report to arrive at the Capital Replacement and Term Debt Repayment Margin and the Term Debt and Capital Lease Coverage Ratio. The use of these two calculations complies with Section 331F of the CONACT and should alleviate some of the private lender concerns as they are commonly recognized industry standards, when used for analyzing agricultural credit.

A minimum Term Debt and Capital Lease Coverage Ratio of 1.1 times the term debt and lease payments was selected after consultation with financial experts and industry lenders and considering available studies of farmer performance and asset depreciation. The 10 percent margin is necessary to account for future unplanned asset purchases and because the ratio does not take into account carryover operating debt and unfinanced asset purchases in the cash flow budget, as is required by the statute.

The use of the Capital Replacement and Term Debt Repayment Margin is required because the carryover operating debt may exceed 10 percent of the term debt and capital lease payments in some operations. The margin must at least equal any unfinanced capital asset purchases because such purchases are not included in the margin calculations. To use this repayment margin without the Term Debt and Capital Lease Coverage Ratio would provide no funds for future capital asset replacements. The intent is to provide minimally adequate funds for replacing depreciated assets, without restricting credit for viable operations.

When used to evaluate cash flow projections, these ratios are considerably less restrictive than the Debt Service Margin currently used by FmHA. The following hypothetical calculation is made under the old procedure, using the Debt Service Margin. The results under the old process may be contrasted with the calculation based on the same hypothetical operation, using the new method as shown in 7 CFR part 1980, subpart B, section 1980.106(b) of this interim rule.

Debt Service Margin

(A) Gross Income (all sources)	$162,000	
(B) Total Cash Operating Expenses (Include Interest, exclude Depreciation and Income and Social Security Taxes)	119,000	
(C) Living Expenses (Include Income and Social Security Taxes if not in Hired Labor)	25,000	
(D) Subtract B and C from A for Net Cash Income		$18,000
(E) Cash Carryover	1,000	
(F) Loans/Line of Credit to be Advanced (Ceiling)	80,000	
(G) Interest Expense (included above)	15,000	
(H) Total Available (Add D, E, F, and G)		114,000
(I) Planned Cash Capital Expenditures	5,000	
(J) Balance Available for Debt Repayment (Subtract I from H)		109,000
(K) Annual Principal and Interest on Term Debt	17,000	
(L) Operating Loan/Line of Credit (Including Interest)	85,000	
(M) All Other Debts (Except Income and Social Security Taxes)	2,000	
(N) Total Debts Except Taxes (Add K, L, and M)		104,000
(O) Debt Service Margin (Subtract N from J)		5,000
(P) Debt Service Margin Ratio (Divide J by N; Ratio must be at least 1.1 times)		1.05 times

Under the old approval procedure, the application fails to qualify for assistance because it does not meet the requirement for a Debt Service Margin Ratio of at least 1.1 times. However, under the new procedure, the same hypothetical operation meets the cash flow qualification with a Term Debt and Capital Lease Coverage Ratio of 1.65 times, comfortably in excess of the minimum 1.1 times, and a Capital Replacement and Term Debt Repayment Margin equal to or greater than planned capital asset purchases not financed.

To adopt the calculations of the Term Debt and Capital Lease Coverage Ratio and the Capital Replacement and Term Debt Repayment Margin, FmHA needed to define "Depreciation/amortization expenses" and "capital leases". The definition for depreciation is based on the FFSTF report and is broadly defined to permit the use of any formula which would accurately reflect the annual expense associated the use of the assets. The capital leases definition is from the FFSTF report and is in accordance with generally accepted accounting principles.

This action also amends 7 CFR part 1980, subpart B, section 1980.106 (Farmer Program Loans), and Exhibit D of that subpart, to modify the definition of "Positive Cash Flow." In addition, Exhibit E of that subpart, "Demonstration Project for Purchase of Certain Farm Credit System Acquired Land," is revised to bring paragraphs referring to the definition of Positive Cash Flow into conformance with the new requirements.

Section 22 State Mediation Programs (Section 502 of the Agricultural Credit Act of 1987)

Section 22 modifies the Agricultural Loan Mediation Program matching grant authority. Matching grants may now be made for 70 percent of a State mediation program's total costs, up from the previously authorized 50 percent. The interim rule modifies 7 CFR part 1946, subpart A, section 1946.4 (c) and (d) accordingly.

List of Subjects

7 CFR Part 1946

Federal-State relations, Grant programs—Agriculture, Intergovernmental relations, Mediation.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1946—MEDIATION

1. The authority citation for part 1946 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Agricultural Loan Mediation Program

2. Section 1946.4 is amended by revising in the first sentence of paragraph (c) and the third sentence of paragraph (d) the words "50 percent" to read "70 percent".

PART 1980—GENERAL

3. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—General

4. Appendix G to subpart A is revised to read as follows:

BILLING CODE 3410-07-U

USDA-FmHA
FORM FmHA 1980-25
(Rev. 12-93)

FORM APPROVED
OMB NO. 0575-0079

Position 3

APPENDIX G TO SUBPART A

FARMER PROGRAMS APPLICATION

TO REQUEST INITIAL and/or SUBSEQUENT GUARANTEED LOAN/LINE OF CREDIT:

Complete Parts 1, 2, and 3 of the application
Review Part 4, and sign and date where indicated
Review Part 5
Complete all applicable areas of Part 6
To Request Interest Assistance, provide the information requested in Part 7
Provide the information required in Parts 9 and 10
Complete Parts 11 and 12
Review Part 13
Complete and sign Part 14

*Attach a Lender's Loan Narrative including a brief history of the operation and support for the guarantee request.

TO REQUEST SUBSEQUENT GUARANTEED LOAN/LINE OF CREDIT IN THE SAME OPERATING CYCLE:

When a borrower received a guaranteed loan and needs additional funds, complete the following Parts:

Blocks 1, 2, 3, and 4 of Part 1
Review Part 4, and sign and date where indicated
Complete all applicable areas of Part 6
To Request Interest Assistance, provide the information requested in Part 7
Complete Part 11 and 12
Review Part 13
Complete and Sign Part 14

TO REQUEST INTEREST ASSISTANCE ON EXISTING GUARANTEED LOAN(S):

Complete Blocks 1, 2, 3, and 4 of Part 1
Review Part 4, and sign and date where indicated
Provide the information requested in Part 7
Complete Part 8
Provide the information required in Part 10
Complete Part 11
Review Part 13
Complete and sign Part 14

Public reporting burden for this collection of information is estimated to average 2 hours per response for each applicant and 4 hours per response for each lender, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0079), Washington, D.C. 20503. Please DO NOT RETURN this form to either of these addresses. Forward to FmHA only.

USDA-FmHA
FORM FmHA 1980-25
(Rev. 12-93)

FORM APPROVED
OMB NO. 0575-0079

FARMER PROGRAMS APPLICATION

PART I

TYPE OF ASSISTANCE BEING REQUESTED

1. GUARANTEE

☐ GUARANTEED LOAN

☐ INITIAL ☐ SUBSEQUENT

☐ SUBSEQUENT LOAN WITHIN SAME OPERATING YEAR

$_____ ORIGINAL LOAN AMOUNT _____ LOAN CLOSING DATE

☐ INTEREST ASSISTANCE ON EXISTING LOAN

(RESERVED FOR FUTURE USE)

2. TYPE OF LOAN APPLICATION ☐ Individual ☐ Partnership ☐ Corporation ☐ Cooperative ☐ Joint Operation

3. NAME OF LOAN APPLICANT

Show official name without abbreviations unless the abbreviation is a part of the official name. For individuals, partnerships, or joint operators, show name(s) followed by d/b/a and trade name used if any.

Have you conducted business under another name during the last 5 years? If so, indicate names.

4. Social Security/Tax ID No.
Appl. _____
Spouse _____

County

Telephone Number

Mailing Address

City, State, and Zip Code

Have you, as an individual, or any member of an entity loan applicant obtained a Direct or Guaranteed loan from FmHA?	☐ Yes	☐ No	☐ N/A
a: If yes, was the loan paid in full?	☐ Yes	☐ No	☐ N/A
b: Was the loan debt settled or were you ever released from personal liability as part of a debt settlement action?	☐ Yes	☐ No	☐ N/A
c: If a guaranteed loan, did the government pay the lender a loss claim?	☐ Yes	☐ No	☐ N/A
d: Are you, as an individual or any member of an entity application, delinquent on any federal debt? (Examples of debt include delinquent taxes, ASCS loans, education loans, etc.; If "Yes", explain on a separate sheet)	☐ Yes	☐ No	☐ N/A

RECEIVERSHIP - BANKRUPTCY — Has the loan applicant or any member of the proposed entity ever been in receivership, been discharged in bankruptcy, or filed a petition for reorganization in bankruptcy? ☐ Yes ☐ No If "Yes" give names, dates and details and explain on a separate sheet.

ARE YOU, THE LOAN APPLICANT, FARMING OR RANCHING NOW? ☐ Yes ☐ No

IF NOT, WHEN DID YOU, THE LOAN APPLICANT OPERATE A FARM?_____19, ____

NUMBER OF YEARS EXPERIENCE OPERATING A FARM _____

(FOR INDIVIDUAL LOAN APPLICANT ONLY)

Dates of Birth of Persons in Household	Applicant	Spouse	Others

MARITAL STATUS..... ☐ MARRIED ☐ SEPARATED ☐ UNMARRIED (including single, divorced, and widowed)

Are you a citizen? ☐ Yes ☐ No

Are you a veteran? ☐ Yes ☐ No

IF "YES", INDICATE DATE OF SERVICE FROM TO BRANCH

(FOR COOPERATIVE, CORPORATION, PARTNERSHIP, OR JOINT OPERATION LOAN APPLICANTS ONLY)

The following information must be provided for all members, stockholders, partners and joint operators and submitted with this application

1) Name, address, social security number, principal occupation, and a current financial statement not more than 90 days old
2) Is each person a U.S. Citizen?
3) Percentage of ownership, control of entity, or number of shares
4) Must be assured that members, partners, etc. can meet personal obligations. Obtain personal cash flows, if necessary.
5) Provide evidence of existence;
   a) Copy of any charter or partnership/joint operation agreement
   b) Any articles of incorporation and by-laws
   c) Any certificate of evidence of current registration (good standing)
   d) Copy of resolution adopted by members, partners, etc. to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

NOTE: Personal guarantees from all stockholders, all owners having an interest in the corporation, all members of a cooperative, all partners of partnerships, and all members of joint operations generally will be required

PART 2

COMPLETE THE FINANCIAL STATEMENT BELOW

OR

MARK THIS BOX ☐ AND ATTACH A SIGNED LOAN APPLICANT'S FINANCIAL STATEMENT DATED_____

FINANCIAL STATEMENT AS OF DATE OF APPLICATION

(Show property owned and debts owed by applicant)

LIST ALL PROPERTY OWNED					LIST ALL DEBTS OWED		
CURRENT FARM ASSETS				$VALUE	CURRENT FARM LIABILITIES		$ AMOUNT
Cash: Savings: ($) Checking ($)					Accounts and Notes Payable (Creditor & Due Date)	Past Due	
Other Invest: (Time Cert $) (Other $)							
Accounts and Notes Receivable							
Crops and Feed	Units	Value Per Unit					
Livestock to be sold	Units	Units Weight	Value Per Unit				
					CCC Loan: (Security) (Due Date)		
					Current Portion of Principal Due on:		
					Intermediate Liabilities		
					Long Term Liabilities		
Growing Crops	Acres	Cost/Acres			Accrued Interest on:		
					Accounts and Notes Payable		
					Intermediate Liabilities		
					Long Term Liabilities		
					Accrued Taxes		
Supplies & Prepaid Expenses					Income Tax & Social Security		
Leases					Other (judgements, liens, etc.)		
Other					Accrued Rent/Lease Payments		
TOTAL CURRENT FARM ASSETS ▶					TOTAL CURRENT FARM LIABILITY ▶		
INTERMEDIATE FARM ASSETS					INTERMEDIATE FARM LIABILITIES (Portion due beyond 12 months)		
Accounts & Notes Receivable beyond 12 months					Creditor	Due Date / Int Rate	Amount Delinquent
Breeding Livestock	Units	Value Per Unit					
Machinery, Equipment, Vehicles							
Cash Value, Life Ins. (Face Amt. $)					CCC Grain Reserve		
CCC Grain Reserve: (Qty.) (Value/Unit)					Facilities	Pmt.$	
Coop Stock					Loan Secured by Life Insurance		
Other					Other		
TOTAL INTERMEDIATE FARM ASSETS ▶					TOTAL INTERMEDIATE FARM LIABILITIES ▶		
LONG TERM FARM ASSETS (Farm Real Estate)					LONG TERM FARM LIABILITIES (Portion due beyond 12 months)		
Total Acres	Dates Purchased	Cost			Creditor	Due Date / Int Rate	Amount Delinquent
Coop Stock							
Equity in Partnerships/Corporations/Joint Operations/Cooperatives							
Other					Other		
TOTAL LONG TERM FARM ASSETS ▶					TOTAL LONG TERM FARM LIABILITIES ▶		
TOTAL FARM ASSETS ▶					**TOTAL FARM LIABILITIES** ▶		

FINANCIAL STATEMENT (continued)

NON FARM ASSETS	$ VALUE	NON FARM LIABILITIES				$ AMOUNT
Real Estate		Nonfarm accounts payable				
Car, Recreational Vehicles, etc.						
Household goods						
Cash value of Life Insurance						
Stocks, bonds, and other						
Nonfarm Business		Nonfarm notes payable				
		Name of Creditor	Due Date	Interest Rate	Annual Instal	Principal Balance
		TOTAL NONFARM LIABILITIES ▶				
		TOTAL LIABILITIES ▶				
TOTAL NONFARM ASSETS ▶		NET WORTH ▶				
TOTAL ASSETS ▶		**TOTAL LIABILITIES AND NET WORTH** ▶				

PART 3

If you OWN or plan to acquire any land complete the following: (Use a separate sheet, if necessary)

GENERAL DESCRIPTION OR ASCS FARM NO. (S) (Include Counties)	OWNER'S NAME	TOTAL ACRES	CROP ACRES

If you RENT or plan to rent complete the following: (Use a separate sheet, if necessary)

GENERAL DESCRIPTION OR ASCS NO. (S) (Include Counties)	LANDLORD NAME	TOTAL ACRES	CROP ACRES	LEASE TERMS	WRITTEN LEASE Yes or No

PART 4

LOAN APPLICANT

1) FOOD SECURITY ACT OF 1985 (P.L. 99-198) CERTIFICATION

The loan applicant certifies that he/she as an individual, or any member, stockholder, partner or joint operator entity applicant, has not been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance since December 23, 1985 in accordance with the Food Security Act of 1985 (Public Law 99-198).

2) STATEMENT REQUIRED BY THE PRIVACY ACT

The Farmers Home Administration (FmHA) is authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.); and Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471 et. seq.), or other Acts administered by FmHA to solicit the information requested on FmHA application forms.

Disclosure of information requested is voluntary. However, failure to disclose certain items of information requested including your Social Security Account or Federal Identification Number may result in a delay in the processing of an application or its rejection.

The principal purposes for collecting the requested information are to determine eligibility for FmHA credit or other financial assistance, the need for interest credit or other servicing actions, for the servicing of your loan, and for statistical analysis. Information provided may be used outside of the Department of Agriculture for the following purposes:

1. Release to interested parties who submit requests under the Freedom of Information Act.
2. To provide the basis for borrower success stories in Department of Agriculture news releases.
3. Referral to the appropriate law enforcement agency as set forth in 40 FR 38924 (1975).
4. Referral to employers, businesses, landlords, creditors or others to determine repayment ability and eligibility for FmHA programs.
5. Referral to a contractor providing services to FmHA in connection with your loan.
6. Referral to a credit reporting agency.
7. Referral to a person or organization when FmHA decides such referral is appropriate to assist in the collection or servicing of the loans.
8. Referral to a Federal Records Center for storage.

Every effort will be made to protect the privacy of applicants and borrowers.

FEDERAL EQUAL CREDIT OPPORTUNITY ACT STATEMENT

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency which administers compliance with this law concerning Farmers Home Administration is the Federal Trade Commission, Pennsylvania Avenue at Sixth Street N.W., Washington, D.C. 20580.

WARNING

All information supplied to Farmers Home Administration (FmHA) by you or your agents in connection with your loan application may be released to interested third parties, including competitors, without your knowledge or consent under the provision of the Freedom of Information Act (5 U.S.C. 522).

Much information not clearly marked "Confidential" may routinely be released if a request is received for same. Further, if we receive a request for information which you have marked "Confidential" the Federal Government will have to release the information unless you can demonstrate to our satisfaction that release of the information would be likely to produce substantial competitive harm to your business or would constitute a clearly unwarranted invasion of personal privacy. Also, forms, consultant reports, etc., cannot be considered confidential in their entirety if confidential material contained therein can reasonably be segregated from other information.

Information submitted may be made available to the public during the time it is held in Government files regardless of the action taken by FmHA on your application.

3) CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, had the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

The prospective lower tier participant further agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

Nothing contained in the foregoing shall be constructed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph 5 of this section, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(A) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(B) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

TEST FOR CREDIT CERTIFICATION

4) I am unable to provide the needed items on my own account, and I am unable to obtain the necessary credit for such items from other sources upon terms and conditions which I can reasonably fulfill, without a Loan Guarantee. I certify that the statements made by me in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith to obtain a loan.

5) The undersigned Loan applicant, upon signing this loan/line of credit application, certifies that I have received the previous notifications and will accept and comply with the conditions stated thereon:

WARNING

Section 1001 of Title 18, United States Code Provides: "Whoever, in any matter within the jurisdiction of any Department or Agency of the United States knowingly and willfully falsifies, conceals or covers up ... a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $250,000 or imprisoned not more than 5 years or both."

VOLUNTARY INFORMATION FOR MONITORING PURPOSES

The following information is requested by the Federal Government in order to monitor FmHA's compliance with federal laws prohibiting discrimination against loan applicants on the basis of race, color, national origin, religion, sex, marital status, hadicapped condition or age (provided that the applicant has the capacity to enter into a binding contract). You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, FmHA is required to note the race/national origin and sex of individual applicants on the base of visual observation or surname.

APPLICANT					SEX
RACE/NATIONAL ORIGIN *(Not of Hispanic origin)*					
☐ WHITE	☐ BLACK	☐ AMERICAN INDIAN OR ALASKAN NATIVE	☐ HISPANIC	☐ ASIAN OR PACIFIC ISLANDER	☐ OTHER *(Specify)*	☐ MALE ☐ FEMALE

Date

(SIGNATURE OF LOAN APPLICANT)

(ADDITIONAL SIGNATURES REQUIRED, IF ANY)

ATTEST:_____(SEAL)

PART 5

1) NOTIFICATION TO APPLICANT ON USE OF FINANCIAL INFORMATION FROM FINANCIAL INSTITUTION

Pursuant to Title XI, (1113 (b) of Public Law 95-630, your application for a government loan or loan guaranty authorizes the Farmers Home Administration in connection with the assistance you seek, to obtain financial information about you contained in financial institutions. No further notice of subsequent access to this information shall be provided during the term of the loan or loan guaranty.

As a general rule, financial records obtained pursuant to this authority may be used only for the purpose for which they were originally obtained. However, they may be transferred to another agency or department if the transfer is to facilitate a lawful proceeding, investigation, examination or inspection directed at the financial institution in possession of the records (or another legal entity not a customer). The records may also be transferred and used (1) by counsel representing a government authority in a civil action arising from a government loan, loan guaranty, or loan insurance agreement; and (2) by the Government to process, service or foreclosure a loan or to collect on an indebtedness to the Government resulting from a customer's default.

FmHA reserves the right to give notice of a potential civil, criminal, or regulatory violation indicated by the financial records to any other agency or department of the Government with jurisdiction over that violation. Such agency or department may then seek access to the records in any lawful manner.

2) The United States Department of Agriculture, acting through the Farmers Home Administration, has complied with the applicable provisions of Title XI, Public Law 95-630, in seeking additional information regarding the above loan applicant pursuant to 7 CFR Part 1980, Subpart A, 1980.46(a)(2).

PART 6

REQUEST NO. _____ of _____ FOR LOAN NOTE GUARANTEE and/or CONTRACT OF GUARANTEE FOR A LINE OF CREDIT:

PRINCIPAL AMOUNT OF LOAN/LINE OF CREDIT CEILING $ _____	LOAN TYPE ☐ FO ☐ OL ☐ SW ☐ OL/LOC

INTEREST RATE ☐ FIXED _____% ☐ VARIABLE	PERCENT GUARANTEE REQUESTED _____%	REPAYMENT PERIOD _____YEARS	REQUEST INTEREST ASSISTANCE IF YES, NUMBER OF YEARS ☐ YES ☐ NO _____

PROPOSED REPAYMENT TERMS:

PURPOSES FOR WHICH GUARANTEED LOAN FUNDS WILL BE USED:	LOAN PURPOSE AMOUNT
	$
	$
	$

SECURITY PROPOSED (INCLUDE THAT ON HAND AND THAT TO BE ACQUIRED)

ITEM DESCRIPTION	APPRAISED VALUE	LIEN POSITION	AMT PRIOR LIEN	AMT OF COLLATERAL VALUE
	$		$	$
	$		$	$
	$		$	$
TOTALS	$		$	$

REQUEST NO. _____ FOR LOAN NOTE GUARANTEE and/or CONTRACT OF GUARANTEE FOR A LINE OF CREDIT:

PRINCIPAL AMOUNT OF LOAN/LINE OF CREDIT CEILING $ _____	LOAN TYPE ☐ FO ☐ OL ☐ SW ☐ OL/LOC

INTEREST RATE ☐ FIXED _____% ☐ VARIABLE	PERCENT GUARANTEE REQUESTED _____%	REPAYMENT PERIOD _____YEARS	REQUEST INTEREST ASSISTANCE IF YES, NUMBER OF YEARS ☐ YES ☐ NO _____

PROPOSED REPAYMENT TERMS:

PURPOSES FOR WHICH GUARANTEED LOAN FUNDS WILL BE USED:	LOAN PURPOSE AMOUNT
	$
	$
	$

SECURITY PROPOSED (INCLUDE THAT ON HAND AND THAT TO BE ACQUIRED)

ITEM DESCRIPTION	APPRAISED VALUE	LIEN POSITION	AMT PRIOR LIEN	AMT OF COLLATERAL VALUE
	$		$	$
	$		$	$
	$		$	$
TOTALS	$		$	$

NOTE: IF ADDITIONAL GUARANTEES NEED TO BE REQUESTED, MAKE A COPY OF THIS PAGE AND ATTACH TO THIS APPLICATION. GUARANTEE REQUESTS NEED TO BE NUMBERED CONSECUTIVELY.

PART 7

REQUIREMENTS WHEN INTEREST ASSISTANCE IS REQUESTED

a) Attach a copy of the proposed debt repayment schedule for each loan which shows principal and interest payments at the proposed interest rate before interest assistance

b) For lines of credit and operating loans for annual operating purposes, attach a copy of a monthly cash flow budget (as defined in paragraph III B of Exhibit D of 7 CFR Part 1980, Subpart B.)

c) Attach a completed copy of attachment 2 to Exhibit D of 7 CFR Part 1980, Subpart B "Interest Assistance Worksheet/Needs Test".

PART 8

REQUEST (S) for INTEREST ASSISTANCE on the following existing loan (s) :

ORIGINAL LOAN AMT/LINE OF CREDIT CEILING	$ _____	$ _____	$ _____
ORIGINAL LOAN CLOSING DATE			
FmHA LOAN NUMBER	_____	_____	_____
MATURITY DATE OF ORIGINAL LOAN			
HAS THE LOAN BEEN FULLY ADVANCED?	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO
NUMBER OF YEARS INTEREST ASSISTANCE REQUESTED FOR?	_____ year (s)	_____ year (s)	_____ year (s)
PROPOSED INTEREST RATE (BEFORE INTEREST ASSISTANCE)	☐ fixed ____ % ☐ variable	☐ fixed ____ % ☐ variable	☐ fixed ____ % ☐ variable
AS OF DATE _____ CURRENT PRINCIPAL BALANCE	$ _____	$ _____	$ _____
CURRENT UNPAID INTEREST	$ _____	$ _____	$ _____
HAS THIS LOAN BEEN PREVIOUSLY COVERED BY AN INTEREST RATE BUYDOWN OR INTEREST ASSISTANCE AGREEMENT?	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO

PART 9

ADDITIONAL REQUIREMENTS

NON-CERTIFIED LENDERS SUBMITTING APPLICATIONS OVER $50,000 - The following information and/or documents listed below are submitted for FmHA's consideration and attached with this application.

APPROVED AND CERTIFIED LENDERS AND ALL LENDERS SUBMITTING APPLICATIONS OF $50,000 OR LESS - The following information and/or documents listed below are not required to be submitted with this application. The exception listed in item 9, however, only applies to certified lenders. The file may be examined by FmHA at anytime during regular business hours, before or after FmHA responds to this request for guarantee.

1) Credit Report
2) A copy of the proposed loan/line of credit "Loan Agreement". This loan agreement must contain as a minimum all of the required items in 7 CFR Part 1980, Subpart B, 1980.113.
3) A copy of the appraisal report for any chattel and/or real estate security.
4) Verification of all debts greater than $1000. Lender may submit: a) Form 440-32, "Statement of Debts and Collateral", b) Lender's own form, or c) any other document verification.
5) Verification of non-farm income. Lender may submit: a) Form 1910-5 "Verification of Employment", b) Lender's own form, c) W-2, d) Earnings statement from employer, or e) any other documented verification.
6) A copy of any lease, contract, or agreement entered into by the loan applicant which may be pertinent to the consideration of the application.
7) A copy of the development plan, if applicable, which includes any drawings and specifications if the guaranteed loan is being requested for construction, major repairs, or major land development.
8) Production and Financial history records for the last five (5) years. This is to include:
   a) Actual production/yields
   b) Actual income and expenses data (farm and non-farm)
   c) Financial Statements a/k/a Balance Sheets
9) Form AD 1026 from ASCS.

PART 10

REQUIREMENTS FOR CASH FLOW PROJECTIONS

The Loan Applicant's cash flow projections and/or typical plan of operation have been prepared in accordance with 7 CFR Part 1980, Subpart B, 1980.113, and are attached to this document. Either Form FmHA 431-2 "Farm & Home Plan" or cash flow forms ordinarily used by the lender, which contain the same information as the Farm & Home Plan, are acceptable.

PART 11

FINANCIAL SUMMARY

Complete the financial summary tables (A, B, and C) based on the Loan Applicant's cash flow projections.

TABLE A - "BALANCE AVAILABLE FOR DEBT REPAYMENT TABLE"

A) TYPICAL YEAR GROSS FARM OPERATING INCOME (exclude cash carryover) ..... $ _____

B) TYPICAL YEAR TOTAL OPERATING EXPENSES (include withdrawals from entities for living expenses, depreciation, and interest on operating debt, term debt, and capital leases; exclude income and social security taxes, carryover debt and delinquent interest) ..... $ _____

C) NET FARM OPERATING INCOME (A - B) ..... $ _____

D) NONFARM INCOME ..... $ _____

E) DEPRECIATION/AMORTIZATION ..... $ _____

F) ANNUAL TERM DEBT INTEREST ..... $ _____

G) ANNUAL CAPITAL LEASE INTEREST ..... $ _____

H) INCOME AND SOCIAL SECURITY TAXES ..... $ _____

I) LIVING EXPENSES ..... $ _____

J) BALANCE AVAILABLE FOR TERM DEBT REPAYMENT (C + D + E + F + G - H - I) ..... $ _____

TABLE B - "ANNUAL SCHEDULED TERM DEBT AND CAPITAL LEASE PAYMENTS"

TO WHOM OWED	AMOUNT DUE WITHOUT INTEREST ASSISTANCE (PRINCIPAL & INTEREST)	AMOUNT DUE WITH INTEREST ASSISTANCE (PRINCIPAL & INTEREST)	DATE DUE
TOTAL (S)	(K)		

(L) TERM DEBT AND CAPITAL LEASE COVERAGE RATIO (LINE ITEM J DIVIDED BY BLOCK K) _____ ..... & ..... _____ %
MINIMUM 1.1 AS PER 7 CFR Part 1980, Subpart B, 1980.106 (b)
IF LESS THAN 1.1 CONSIDER THE INTEREST ASSISTANCE PROGRAM.

TABLE C - CAPITAL REPLACEMENT AND TERM DEBT REPAYMENT MARGIN	
M) CASH CARRYOVER FROM PREVIOUS YEAR	_____
N) CARRYOVER DEBT FROM PREVIOUS YEAR (Include principal and interest of carryover operating, term debt and capital leases)	_____
O) CAPITAL REPLACEMENT AND TERM DEBT REPAYMENT MARGIN (Add J and M, and subtract K and N)	_____
P) PORTION OF CAPITAL ASSETS NOT FINANCED	_____
(Must be less than or equal to capital replacement and term debt repayment margin. If no unfinanced capital asset purchases are planned, the margin must be greater than zero. The interest assistance program will be considered if the margin is less than the capital assets not financed and/or less than zero.)	

PART 12. ENVIRONMENTAL INFORMATION. (CLP LENDERS ONLY)

The undersigned lender certifies that proper investigations have been conducted to support the following conclusions:

1. Floodplains. Does the property contain existing structures (i.e. farm dwellings and/or service buildings) or does the proposal involve development (i.e. construction channeling, or other alterations) located within the 100-year floodplain, as defined by FEMA floodplain maps, SCS soil surveys, or other documentation?
   ☐ YES ☐ NO

2. State Water Quality Standards. Did the investigation indicate the operation does not conform to State Water Quality standards?
   ☐ YES ☐ NO

3. Historical/Archaeological Sites. Does the property contain structures over 50 years old, structures with significant architectural features, or does the property have any historical significance which may make it eligible for the National Register of Historic Places?
   ☐ YES ☐ NO

4. Wetlands and Highly Erodible Land.

   a. Will the proposed plan of operation contribute to the erosion of highly erodible land or the conversion of wetlands?
   ☐ YES ☐ NO

   b. Has ASCS confirmed that the applicant currently holds an eligible status with respect to the HELC and WC provisions of the Food Security Act?
   ☐ YES ☐ NO

   c. Will loan funds be used to drain, dredge, fill, or otherwise manipulate a wetland? Also, will loan funds be used for an activity which impairs or reduces the flow, circulation, or reach of water?
   ☐ YES ☐ NO

5. Hazardous Substances. For this proposal, has a "due diligence" investigation with respect to underground storage tanks and contamination from hazardous substances indicated any contamination?
   ☐ YES ☐ NO

   If "yes" please describe on an attachment or contact the County Office.

PART 13

CERTIFIED AND NON-CERTIFIED LENDERS

The undersigned Lender certifies the following and requests issuance of a guarantee in the subject case.

1) The loan will be properly closed and/or line of credit agreement will be properly executed and the required security obtained. The construction, relocation, repairs, or other development will be completed in accordance with approved drawings and specifications.

2) The borrower has marketable title to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below:

3) Security property now owned and any acquired is considered adequate security for the loan to be guaranteed. If inadequate, state why you believe the borrower's operating plans will permit the borrower to pay the guaranteed loan or lines of credit in full within the period specified. The security instruments will be properly filed or recorded prior to, or simultaneously with, the issuance of the guarantee; except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as appropriate and legally permissible.

4) Loan funds will be used for FmHA-approved purposes.

5) Proper hazard and any other required insurance will be obtained or is now in effect, as applicable.

6) The lender will provide a completed Form FmHA 1980-19, "Guaranteed Loan Closing Report," and a check for the amount of the guarantee fee prior to issuance of the guarantee, if applicable.

7) RESTRICTIONS AND DISCLOSURE OF LOBBYING ACTIVITIES

If any funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to guarantee a loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

8) Before a guarantee is issued by FmHA, The lender will certify to conditions in Form 1980- 22, "Lender Certification."

9) The requirements of following sections of 7 CFR Part 1980, Subpart A have or will be met as applicable.

A) 7 CFR. ' .40 Environmental requirements
B) 7 CFR 1980.41 Equal Opportunity and nondiscrimination requirements
C) 7 CFR. 1980.42 Flood or mudslide hazard area precautions
D) 7 CFR. 1980.43 Clean Air Act and Water Pollution Control Act requirements
E) 7 CFR. 1980.44 Natural Historic Preservation Act of 1966
F) 7 CFR. 1980.45 Other Federal, State, and local requirements

The loan applicant and/or lender must be in compliance with this section effective with the date of issuance of the Loan Note Guarantee or Contract of Guarantee.

10) The undersigned: (a) considers the proposed loan or line of credit to be sound and within the borrower's repayment ability, (b) believes that all applicable requirements in 7 CFR Part 1980, Subparts A and B have been or will be met and (c) will not make the loan or advances under the line of credit without an FmHA guarantee.

11) In connection with Interest Assistance Requests the Lender certifies that:

A) The amount of interest resulting from the percentage of interest which FmHA agrees to pay will be permanently canceled as it becomes due and that no attempt will be made to collect that portion of the debt from the borrower.

B) The lender's reduction in interest charged to the borrower will result in a reduced payment schedule for the borrower and a projected positive cash flow (as defined in paragraph III D of this Exhibit D to 7 CFR Part 1980, Subpart B) throughout the term of the Interest Assistance Agreement.

12) In connection with SUBSEQUENT LOAN REQUESTS IN THE SAME OPERATING CYCLE when a borrower has a recently closed guaranteed loan and needs additional funds, the Lender certifies that the revised cash flow projection has a positive cash flow, the loan/line of credit will be adequately secured, and the loan applicant is in compliance with the loan agreements and all applicable certifications made when the original guaranteed loan was made, are still valid.

13) If loan funds are to be used at or after the time of loan closing for construction, substantial repairs, or major land development, certification(s) on Form FmHA 449-11, "Certification of Acquisition or Construction," will be furnished to FmHA as soon as possible on any such construction, repair or land development.

14) CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR §3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agricultural agency offering the proposed covered transaction.

The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out on this form. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The certification in this clause is a material representation of fact upon which reliance was placed when the department of agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

The terms "covered transaction," "debarred," "suspended," "ineligible", "lower tier covered transaction, "participant", "person," "primary covered transaction," "principal," and "voluntarily excluded," as used in this clause, had the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

The prospective primary participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

The prospective primary participant further agrees by submitting this form that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions, provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph 5 of this Section (14), if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

A) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction; violation of Federal, or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property.

(c) are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (A) (b) of this certification; and

(d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or Local) terminated for cause or default.

B) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

15) Appraisals. "I certify that this institution will be in compliance with the real estate appraisal requirements found in 7 CFR §1980.113.

PART 14. LENDERS SIGNATURE

This Application is being filed as:

☐ CERTIFIED LENDER ☐ NON-CERTIFIED LENDER ☐ APPROVED LENDER

The application is governed by the Lender Agreement dated _____

Name of Lender _____

Lender IRS, I.D. Tax No.: _____

Lender Address _____

_____

_____

Telephone Number _____ _____

Contact Person _____
(Name/Title)

WARNING

Section 1001 of Title 18, United States Code Provides: "Whoever, in any matter within the jurisdiction of any Department or Agency of the United States knowingly and willfully falsifies, conceals or covers up ... a material fact, or makes any false, fictitous or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $250,000 or imprisoned not more than 5 years or both."

_____
(Signature of Lender)

Date: _____ By: _____

Title: _____

BILLING CODE 3410-07-C

Subpart B—Farmer Program Loans

5. Section 1980.106 is amended in paragraph (b) by revising the definition of "Positive cash flow" to read as follows:

§ 1980.106 Abbreviations and definitions.

* * * * *

(b) * * *

Positive cash flow. The ability of a borrower's operation to pay all projected farm operating, interest, and family living expenses, including taxes and delinquent tax payments, from combined farm and nonfarm income for a typical year, by a ratio of 1.1 times all annual scheduled term debt and capital lease payments. This ratio is called the Term Debt and Capital Lease Coverage Ratio. In addition, the operation must be able to pay carryover debt and unfinanced capital asset purchases. This is determined by the Capital Replacement and Term Debt Repayment Margin, which must be equal to or greater than the planned capital asset purchases not financed. If no unfinanced capital asset purchases are planned, the margin must be equal to or greater than zero. Production records and prices used in the preparation of a positive cash flow will be in accordance with § 1980.113 of this subpart. The Term Debt and Capital Lease Coverage Ratio and the Capital Replacement and Term Debt Repayment Margin are calculated in the following manner:

(1) Add projected net farm operating income, projected annual nonfarm income, projected capital depreciation/amortization expenses, scheduled annual interest on term debt, and scheduled annual interest on capital leases.

(i) Net farm operating income is the gross income generated by a farming operation annually, minus all yearly operating expenses (including withdrawals from entities for living expenses), operating loan interest, interest on term debt and capital lease payments, and depreciation/amortization expenses. Exclude Income and Social Security Taxes, Carryover Debt and Delinquent Interest.

(ii) Depreciation/amortization expenses are an annual allocation of the cost or other basic value of tangible capital assets, less salvage value, over the estimated life of the unit (which may be a group of assets), in a systematic and rational manner.

(iii) Capital leases are agreements under which the lessee effectively acquires ownership of the asset being leased. A lease is a capital lease if it meets any one of the following criteria:

(A) The lease transfers ownership of the property to the lessee at the end of the lease term.

(B) The lessee has the right to purchase the property for significantly less than its market value at the end of the lease.

(C) The term of the lease is at least 75 percent of the estimated economic life of the leased property.

(D) The present value of the minimum lease payments equals or exceeds 90 percent of the fair market value of the leased property.

(2) Subtract from this sum projected annual Income and Social Security tax payments, including any delinquent taxes, and family living expenses. The difference is the Balance Available for Term Debt Repayment

(i) Family living expenses are any withdrawals from income to provide for needs of family members.

(ii) Family members are considered to be the immediate members of the family residing in the same household with the individual borrower, or, in the case of a cooperative, corporation, partnership, or joint operation, with the operator(s).

(3) Divide the Balance Available for Term Debt Repayment by the sum of the annual scheduled principal and interest payments on term debt, plus the annual scheduled principal and interest payments on capital leases, excluding delinquent installments. The quotient is the Term Debt and Capital Lease Coverage Ratio.

(4) Add the Balance Available for Term Debt Repayment to any cash carryover from the preceding year.

(5) Subtract from this sum the amount of the Total Annual Scheduled Term Debt and Capital Lease Payments, and any debt carried over from the previous year. The difference is the Capital Replacement and Term Debt Repayment Margin, which must be equal to or greater than any planned capital asset purchases not financed.

(6) Example:

(i) Items A through P of this example correspond to the figures found on Form FmHA 1980–25.

(ii) Term Debt and Capital Lease Coverage Ratio:

(A) Typical Year Gross Farm Operating Income (Exclude Cash Carryover)	$162,000	
(B) Typical Year Total Operating Expenses (Include Withdrawals from Entities for Living Expenses, Depreciation, and Interest on Operating Debt, Term Debt, and Capital Lease Payments. Exclude Income and Social Security Taxes, Carryover Debt and Delinquent Interest)	125,000	
(C) Net Farm Operating Income (A–B)		$37,000
(D) Nonfarm Income	0	
(E) Depreciation/Amortization expenses	6,000	
(F) Annual Term Debt Interest	10,000	
(G) Annual Capital Lease Interest	0	
(H) Income and Social Security Taxes	2,000	
(I) Living Expenses	23,000	
(J) Balance Available for Term Debt Repayment (C+D+E+F+G−H−I)		28,000
(K) Annual Scheduled Term Debt and Capital Lease Payments (Principal and Interest, exclude Delinquent Installments)		17,000
(L) Term Debt and Capital Lease Coverage Ratio (Line Item J divided by Block K; must be at least 1.10)		1.65 times
(M) Cash Carryover from Previous Year	1,000	
(N) Carryover Debt from Previous Year (Include Principal and Interest on Carryover Operating Debt, Term Debt, and Capital Lease Debt)	2,000	
(O) Capital Replacement and Term Debt Repayment Margin (Add J and M, and subtract K and N)		10,000
(P) Portion of Planned Capital Asset Purchases Not Financed (Must be less than or equal to Capital Replacement and Term Debt Repayment Margin (O))		5,000

* * * * *

6. Exhibit D to Subpart B is amended by revising the last word in the first sentence of Paragraph I. from "chapter" to read "subpart"; by revising the heading of paragraph III. C. to read "Interest Assistance Agreement (Farmer Programs) (Form FmHA 1980–64)"; and by revising paragraph III. D. to read as follows:

Exhibit D—Interest Assistance Program

* * * * *

III. * * *

D. *Positive cash flow.* The ability of a borrower's operation to pay all projected farm operating, interest, and family living

expenses, including taxes and delinquent tax payments, from combined farm and nonfarm income for a typical year, by a ratio of 1.1 times all annual scheduled term debt and capital lease payments. This ratio is called the Term Debt and Capital Lease Coverage Ratio. In addition, the operation must be able to pay carryover debt and unfinanced capital asset purchases. This is determined by the Capital Replacement and Term Debt Repayment Margin, which must be equal to or greater than the planned capital asset purchases not financed. If no unfinanced capital asset purchases are planned, the margin must be equal to or greater than zero. Production records and prices used in the preparation of a positive cash flow will be in accordance with § 1980.113 of this subpart. The Term Debt and Capital Lease Coverage Ratio and the Capital Replacement and Term Debt Repayment Margin are calculated in the following manner:

1. Add projected net farm operating income, projected annual nonfarm income, projected capital depreciation/amortization expenses, scheduled annual interest on term debt, and scheduled annual interest on capital leases.

a. Net farm operating income is the gross income generated by a farming operation annually, minus all yearly operating expenses (including withdrawals from entities for living expenses), operating loan interest, interest on term debt and capital lease payments, and depreciation/amortization expenses. Exclude Income and Social Security Taxes, Carryover Debt and Delinquent Interest.

b. Depreciation/amortization expenses are an annual allocation of the cost or other basic value of tangible capital assets, less salvage value, over the estimated life of the unit (which may be a group of assets), in a systematic and rational manner.

c. Capital leases are agreements under which the lessee effectively acquires ownership of the asset being leased. A lease is a capital lease if it meets any one of the following criteria:

(1) The lease transfers ownership of the property to the lessee at the end of the lease term.

(2) The lessee has the right to purchase the property for significantly less than its market value at the end of the lease.

(3) The term of the lease is at least 75 percent of the estimated economic life of the leased property.

(4) The present value of the minimum lease payments equals or exceeds 90 percent of the fair market value of the leased property.

2. Subtract from this sum projected annual Income and Social Security tax payments, including any delinquent taxes, and family living expenses. The difference is the Balance Available for Term Debt Repayment.

a. Family living expenses are any withdrawals from income to provide for needs of family members.

b. Family members are considered to be the immediate members of the family residing in the same household with the individual borrower, or, in the case of a cooperative, corporation, partnership, or joint operation, with the operator(s).

3. Divide the Balance Available for Term Debt Repayment by the sum of the annual scheduled principal and interest payments on term debt, plus the annual scheduled principal and interest payments on capital leases, excluding delinquent installments. The quotient is the Term Debt and Capital Lease Coverage Ratio.

4. Add the Balance Available for Term Debt Repayment to any cash carryover from the preceding year.

5. Subtract from this sum the amount of the Total Annual Scheduled Term Debt and Capital Lease Payments, and any debt carried over from the previous year. The difference is the Capital Replacement and Term Debt Repayment Margin, which must be equal to or greater than any planned capital asset purchases not financed.

6. Example:

Term Debt and Capital Lease Coverage Ratio

a. Typical Year Gross Farm Operating Income (Exclude Cash Carryover)	$162,000	
b. Typical Year Total Operating Expenses (Include Withdrawals from Entities for Living Expenses, Depreciation, and Interest on Operating Debt, Term Debt, and Capital Lease Payments. Exclude Income and Social Security Taxes, Carryover Debt and Delinquent Interest)	125,000	
c. Net Farm Operating Income (a–b)		$37,000
d. Nonfarm Income	0	
e. Depreciation/Amortization expenses	6,000	
f. Annual Term Debt Interest	10,000	
g. Annual Capital Lease Interest	0	
h. Income and Social Security Taxes	2,000	
i. Living Expenses	23,000	
j. Balance Available for Term Debt Repayment (c+d+e+f+g−h−i)		28,000
k. Annual Scheduled Term Debt and Capital Lease Payments (Principal and Interest, exclude Delinquent Installments)		17,000
l. Term Debt and Capital Lease Coverage Ratio (Line Item j divided by Block k; must be at least 1.10)		1.65 times
m. Cash Carryover from Previous Year	1,000	
n. Carryover Debt from Previous Year (Include Principal and Interest on Carryover Operating Debt, Term Debt, and Capital Lease Debt)	2,000	
o. Capital Replacement and Term Debt Repayment Margin (Add j and m, and subtract k and n)		10,000
p. Portion of Planned Capital Asset Purchases Not Financed (Must be less than or equal to Capital Replacement and Term Debt Repayment Margin (o))		5,000

* * * * *

7. Exhibit D, Attachment 2 of Subpart B is revised to read as follows:

Attachment 2—Interest Assistance Worksheet/Needs Test

Effective Dates of Review
Period _____ to _____.
Applicant/Borrower
Name _____.
Social Security/Tax Payer ID
Number _____.

The Needs Test below will be used to calculate the needed level of interest assistance subsidy. The level of Interest Assistance will be either zero or four percent. Requests for new or continuing Interest Assistance must meet all requirements of this exhibit and subpart.

Determine if borrower needs Interest Assistance:
When either the TDCLC Ratio is <1.10,
Or Margin after Cash Asset Purchases is <0,
Then calculate repayment with a 4% subsidy.
After calculating repayment with a 4% subsidy:
If TDCLC Ratio is ≥1.10,
And Margin after Cash Asset Purchases is ≥0,
Then Interest Assistance will be granted at 4%.

If the above test is not met (TDCLC Ratio is <1.10 or Margin after Cash Asset Purchases is <0), then Interest Assistance will not be granted. For a request on a new loan, the guarantee will not be issued or for a continuation request, the assistance level will be zero.

For existing loans, enter the FmHA loan number (i.e., 44–51) and/or for requests in conjunction with a request for guarantee, enter the request number from Part 6 of the Form FmHA 1980–25:

_____ _____ _____

Level of Interest
Assistance requested.
(0 or 4 percent)

_____ _____ _____

_____
Preparer's Signature

_____
Title

Date

8. Exhibit E to Subpart B is amended in paragraph IV.A. by removing the words "except the reserve requirement as outlined in § 1980.106(b) of this subpart may be from zero to 10 percent" from the last sentence and by revising paragraph III.E. to read as follows:

Exhibit E—Demonstration Project for Purchase of Certain Farm Credit System Acquired Farm Land

* * * * *

III. * * *

E. *Positive Cash Flow*—A cash flow projection, as defined in § 1980.106(b) of this subpart, except that the Term Debt and Capital Lease Coverage Ratio must be at least 1.0 times.

* * * * *

Dated: September 20, 1993.

Bob J. Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 93-30379 Filed 12-16-93; 8:45 am]

BILLING CODE 3410-07-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-52-AD; Amendment 39-8757; AD 93-24-08]

Airworthiness Directives; Corporate Jets Limited Model DH/HS/BH/BAe 125 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Corporate Jets Model DH/HS/BH/BAe 125 series airplanes, that requires a one-time functional test of the diodes located in the engine fire extinguisher systems to verify proper operation of the diodes, and replacement of any defective diode. This amendment also requires that all test results, positive or negative, be reported to the manufacturer. This amendment is prompted by reports of undetected failures of certain diodes in the engine fire extinguisher systems. The actions specified by this AD are intended to prevent failure of the engine fire extinguisher systems.

DATES: Effective on January 18, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 18, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Corporate Jets, Inc., 22070 Broderick Drive, Sterling, Virginia 20166. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Corporate Jets Limited Model DH/HS/BH/BAe 125 series airplanes was published in the **Federal Register** on July 2, 1993 (58 FR 35904). That action proposed to require a one-time functional test of the diodes located in the engine fire extinguisher systems to verify proper operation of the diodes, and replacement of any defective diode. That action also proposed to require that all test results, positive or negative, be reported to the manufacturer.

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

One commenter requests that a method be developed and implemented which would alert flight crews of failure of any electronic component, including diodes, located in the engine fire extinguisher system. The commenter considers that a one-time functional test of certain diodes located in the engine fire extinguisher systems, as proposed in the notice, is only an interim action until a final solution is developed and implemented that will prevent failure of such electronic components. The commenter notes that diodes as well as other electronic components can fail without warning as a result of a spurious signal. The commenter further notes that the diodes are not tested prior to every flight; therefore, flight crews could be flying airplanes with latently failed diodes. Consequently, the engine fire extinguishing system may not be able to extinguish an engine fire.

The FAA does not concur with the commenter's request. Latent failures in non-critical systems are normally addressed by requiring repetitive inspections of the system at intervals that are based on calculations derived from the service history of the components involved; repetitive inspections of the system will maintain the level of risk for undetected failures at acceptable levels. This is the basic certification approach taken for engine fire extinguisher systems on the Model 125 series airplanes. The manufacturer's recommended maintenance program for these airplanes has recently been revised to include repetitive inspections of the fire extinguishing systems, including inspection of the subject diodes. The FAA has determined that the onetime inspection of the subject diodes that is required by this AD, coupled with the repetitive inspections that are currently a part of the maintenance program, is adequate to provide a level of reliability and safety equivalent to that required by the Federal Aviation Regulations (FAR). This combination of inspections will provide a high probability that any failed diode is detected and replaced before such failure would affect the operational safety of the airplane.

The same commenter supports the proposed rule, but recommends that it be issued as an immediately adopted rule (without prior notice) to assure timely action to detect failed diodes in the engine fire extinguisher system. Since failures could adversely affect the ability of the fire extinguishing system to extinguish an engine fire during flight, the commenter considers that the safety implications of this problem be given more timely consideration. The commenter notes that any fire extinguishing system, especially one located in the vicinity of the airplane engines, is one of the most critical emergency systems on the aircraft. The commenter states that operating an airplane with a known unsafe condition in the fire extinguishing system continues to potentially expose passengers and flight crews to undue risk. The commenter further notes that by issuing a Notice of Proposed Rulemaking (NPRM), allowing time for public comment, and then issuing a final rule, the FAA would allow flight crews to operate the airplanes for a longer period without being inspected in order to ensure that the engine fire extinguisher system does not have latently failed diodes.

The FAA does not concur with the commenter's recommendation. Although the FAA recognizes the unsafe condition presented by this situation, as was described in the preamble to the notice, the FAA could not substantiate that a critical, immediate safety of flight problem existed, that would warrant issuance of a rule without prior notice.

The FAA's decision to provide prior notice was based on several issues:

1. The subject fire extinguisher system has two bottles available for discharge by the flight crew. If the first bottle that is discharged by the flight crew fails to fully extinguish a fire, the fire warning system will give a warning, at which time the flight crew will then discharge the second bottle. Since the system for each bottle has its own diodes, one diode in each bottle system would have to fail in order for the discharge from both fire extinguishers to fail to reach the concentration needed to fully extinguish a fire.

2. The reported failed diodes, on which this action is based, were found during routine maintenance, not during flight. The service history data for these airplanes over the last 28 years of operation indicate no reports of diodes that failed in service, and no in-service incidents in which failed diodes contributed to the failure of the fire extinguisher system to extinguish an engine fire.

3. Repetitive inspections of the subject diodes and the system in which they are installed recently have become part of the recommended maintenance program for these airplanes, thus ensuring that operators recognize the need to perform repetitive inspections of the diodes. (Corporate Jets intends to use the information obtained from the required test reports submitted by operators to determine if failure of the diodes is a widespread problem in the fleet. Based on the acquired data, the inspection interval in the maintenance program may be adjusted.)

In developing this AD action, the FAA considered all of these items, and determined that it was not impracticable to provide notice and the opportunity for public comment on the proposed requirements.

The same commenter requests that the FAA be more consistent in their rulemaking procedures when they are writing rules about similar unsafe conditions. The commenter notes that the July 2, 1993, issue of the **Federal Register** included two AD actions concerning very similar unsafe conditions in the engine fire extinguishing systems. One of these was applicable to British Aerospace Model ATP airplanes [AD 93–13–03, Amendment 39–8616 (58 FR 35860)], and was published as an immediately adopted rule. The other was the NPRM for this subject action, applicable to Corporate Jets Limited Model DH/HS/BH/BAe 125 series airplanes. The FAA does not agree with the commenter's suggestion that the FAA has been inconsistent in its AD rulemaking actions. In the case of the referenced immediately adopted rule, the unsafe condition affecting Model ATP airplanes (an engine fire extinguisher bottle cartridge failing to fire) would cause the fire extinguishing systems to cease functioning completely. Additionally, at the time of publication of that rule, there was little information available as to how widespread the unsafe condition was throughout the fleet of Model ATP airplanes. In the case of the NPRM, the subject unsafe condition affecting Model 125 series airplanes (undetected failed diodes) would allow the fire extinguishing system to continue to function, but its ability to extinguish engine fires would be diminished somewhat. Additionally, there is some indication that the unsafe condition does not exist on a large percentage of Model 125 series airplanes. In developing this AD action, the FAA considered these items and determined that it was practicable to provide notice and the opportunity for public comment on the proposed requirements.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 440 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $72,600, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93–24–08 Corporate Jets Limited (formerly De Havilland, Hawker Siddeley, Beechcraft Hawker, and British Aerospace): Amendment 39–8757. Docket 93–NM–52–AD.

Applicability: Model DH/HS/BH/BAe 125 series airplanes, excluding Model BAe 125–1000A series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine fire extinguisher systems, accomplish the following:

(a) Within 90 days after the effective date of this AD, conduct a one-time functional test of the diodes located in each engine fire extinguisher system to verify proper operation of the diodes, in accordance with Corporate Jets, Limited, Service Bulletin S.B. 26–33, dated December 8, 1992.

(b) If any diode is found to be defective, prior to further flight, replace the defective diode in accordance with Corporate Jets Limited Service Bulletin S.B. 26–33, dated December 8, 1992.

(c) Within 10 days after accomplishing the functional test required by paragraph (a) of this AD, report all test findings, positive or negative, by mail or fax message to the following address: Service Support Manager, Corporate Jets Limited, 3 Bishop Square, St. Albans Road West, Hatfield, Hertfordshire AL10 9NE, England; fax 011–44–707 253959, or 011–44–707 252367. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The functional test and replacement shall be done in accordance with Corporate Jets Limited Service Bulletin S.B. 26-33, dated December 8, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Corporate Jets, Inc., 22070 Broderick Drive, Sterling, Virginia 20166. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 18, 1994.

Issued in Renton, Washington, on December 2, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-30097 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-44-AD; Amdt. 39-8755; AD 93-24-06]

Airworthiness Directives; General Dynamics Convair Model 340, 440, and C-131B Through C-131H (Military) Series Airplanes, Including Those Modified for Turbo-Propeller Power

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all General Dynamics Convair Model 340, 440, and C-131B through C-131H (military) series airplanes, that requires inspections of elevator and rudder hinge pin and bushing assemblies, a hardness test of the elevator and rudder hinge pins and bushings, and replacement of discrepant parts. This amendment is prompted by reports that three elevator hinge pins were found that were dimensionally incorrect and were in a "soft" condition (not heat-treated). The actions specified by this AD are intended to prevent the loss of an elevator or rudder, resulting from installation of a suspected unapproved part.

DATES: Effective on January 18, 1994.

The incorporation by reference of General Dynamics, Convair Division, Service Bulletin 640(340D)55-5, dated September 21, 1990; General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993, as listed in the regulations, is approved by the Director of the Federal Register as of January 18, 1994.

The incorporation by reference of General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS-34-1000, Revision 1, dated April 15, 1991, including Addenda I, II, and III, all dated April 15, 1991, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 22, 1992 (57 FR 9382, March 18, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from General Dynamics, Convair Division, P.O. Box 85377, San Diego, California 92186-5377. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM-123L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5237; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all General Dynamics Convair Model 340, 440, and C-131B through C-131H (military) series airplanes was published in the **Federal Register** on June 2, 1993 (58 FR 31350). That action proposed to require repetitive visual inspections of elevator and rudder hinge pin and bushing assemblies, a hardness test of the elevator and rudder hinge pins and bushings, and replacement of discrepant parts.

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

One commenter supports the proposed rule.

One commenter requests that the proposed rule be withdrawn. The commenter indicates that accomplishment of Item 55-2-9 of the General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," is required both by paragraph (b) of the proposed AD and by AD 92-06-06, Amendment 39-8186 (57 FR 9382, March 18, 1992) (hereafter referred to as "the SID AD.") The commenter suggests that if Item 55-2-9 of the SID were revised slightly, issuance of this new AD would not be necessary.

The FAA does not concur with the commenter's request to revise the SID and withdraw the proposal. Revising Item 55-2-9 of the SID could necessitate issuance of a new AD to supersede the SID AD, which addresses the SID. However, superseding the SID AD would not preclude the FAA from issuing this AD, since the FAA has determined that a hardness test to determine the equivalent strength of the elevator and rudder hinge pins and bushings must be accomplished.

This hardness test of the pins and bushings is not specified in the SID AD; therefore, the FAA has included it in paragraph (a)(2) of this AD. In accomplishing the hardness test, operators must gain access to the same area of the airplane that must be inspected to meet the requirements of the SID AD. Even if an operator has previously performed the inspections of this area in accordance with the SID AD within the last 2,000 hours time-in-service or 2 years, the possibility exists that, if an undetected "soft" pin or bushing were installed, it could cause damage to the adjacent structure in the interim. In light of this possibility, the FAA concludes that the hardness test as well as the structural inspections must be accomplished at the same time.

The commenter is correct in stating that paragraph (b) of this AD duplicates certain requirements and compliance times contained in the SID AD. Paragraph (b) of this AD requires that the actions specified in paragraphs (a)(1) and (a)(3) of this AD be repeated at intervals not to exceed 2,000 hours time-in-service or 2 years, whichever occurs first. The FAA has included paragraph (b) in this AD merely as a restatement of the corresponding requirements and compliance times for these inspections as specified in the SID

AD. That paragraph is included to clarify for certain operators that subsequent actions are required within 2,000 hours time-in-service or 2 years, whichever occurs first, after accomplishing paragraphs (a)(1) and (a)(3) of this AD, rather than within the same amount of time after accomplishing the requirements of the SID AD. In sum, once the requirements of paragraphs (a)(1) and (a)(3) of this AD are accomplished, such accomplishment satisfies the corresponding requirements contained in the SID AD. "Note 1" has been added to paragraph (b) of this AD to clarify this point.

A second commenter asks that the SID document be revised to add a reference to General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55–7, and to remove from the SID a reference to AD 91–12–05, Amendment 39–7016 (56 FR 26609, June 10, 1991). This commenter suggests that the proposed rule could then be rewritten to supersede AD 91–12–05; once the SID is revised, the supersedure of AD 91–12–05 could then be withdrawn.

The FAA does not concur. As discussed previously, revising the SID could necessitate issuance of a new AD to supersede the current SID AD. The referenced AD 91–12–05 requires only a one-time inspection, which operators already will have accomplished by the time this AD becomes effective. The FAA must issue this AD in order to require an additional inspection of the affected area and a hardness test.

One commenter requests that proposed paragraph (b), which would require repetitive structural inspections, either be revised or removed from the proposal. The commenter suggests that if a reference to General Dynamics Alert Service Bulletin 640(340D) S. B. No. A55–7 were added to the SID, paragraph (b) could be removed from the proposal. The commenter states that if a SID revision cannot be accomplished in a timely manner, then paragraph (b) should be revised to omit references to the SID, since repetitive actions could be required in accordance with the service information specified in paragraphs (a)(1) and (a)(3) of the proposal. A second commenter asks that paragraph (b) be removed from the proposal since the same requirements are already specified in the SID AD. The commenter adds that once the addressed suspected unapproved parts have been inspected or replaced, the parts could not become "unapproved" or lose their hardness with time.

The FAA does not concur. As explained previously, although paragraph (b) of this AD does restate the repetitive inspection requirements of the SID AD, it has been included to clarify for operators that the next inspection of the addressed structure is to be performed within 2,000 hours time-in-service or 2 years, whichever occurs first, from the time that an operator complies with the initial requirements of this AD, rather than the SID AD. Further, paragraph (b) does not require that the hardness test specified in paragraph (a)(2) of the final rule be repeated; only the actions required by paragraphs (a)(1) and (a)(3) of this AD must be repeated.

One commenter requests clarification as to whether the proposed AD supersedes AD 91–12–05. The FAA clarifies that AD 91–12–05 requires a one-time visual inspection of the elevator hinge pins, bearings, bearing plate assemblies, nut plate assemblies, and bushings within 60 days or 50 hours time-in-service after July 25, 1991. The FAA assumes that all affected operators have complied already with AD 91–12–05. In addition to requiring an additional inspection of the affected area, this final rule requires a hardness test of the pins and bushings. This final rule does not supersede any existing AD.

One commenter requests that the proposed compliance time of 400 hours time-in-service or 180 days for accomplishing the initial requirements of the AD, as specified in paragraph (a) of the proposed rule, be extended to 1,000 hours time-in-service or 12 months. The commenter states that the affected airplanes have been the subject of two recent AD's that are very work-intensive, and that low hourly utilization operators, in particular, must plan at least one year in advance for such heavy maintenance requirements. Consequently, the commenter believes that the proposed compliance time would place an undue and significant economic burden on some operators. This commenter also voices concern regarding the availability of spares and associated scheduling problems involving accomplishment of the proposed AD.

The FAA does not concur with the commenter's request to revise the compliance time specified in paragraph (a) of this AD. Elevator and rudder hinge pins and bushings and bearing plate assemblies, which must be inspected in accordance with this AD, are flight-critical items; therefore, maintaining the structural integrity of these items is crucial. In developing an appropriate compliance time for the initial requirements of this AD, the FAA considered not only the degree of urgency associated with addressing the unsafe condition in a timely manner, but normal maintenance schedules for the majority of the affected fleet, and the availability of replacement parts. The FAA finds that sufficient evidence does not exist at this time to warrant revising this compliance time.

One commenter requests that the proposed repetitive inspection interval specified in paragraph (b) of the proposal be extended from 2,000 hours time-in-service or 2 years, to 4,000 hours time-in-service or 4 years. The commenter states that if new bearings and taper pins purchased from General Dynamics are installed, an increased inspection interval would be more realistic and safety would not be compromised.

Additionally, a second commenter requests that the proposed repetitive inspection interval of 2,000 hours time-in-service or 2 years, whichever occurs first, be changed to only 2,000 hours time-in-service. This commenter states that its fleet is used only about 83 flight hours per month and, therefore, its aircraft would not wear at the same rate as those operated more frequently. Consequently, this commenter believes that a 2-year repetitive inspection interval would be costly and too restrictive in this case. The commenter also states that a more repetitious removal of the hinge pins would result in a greater chance of base metal erosion. This commenter concludes that only the elevator and rudder bearing plates should be inspected if a visual inspection is required at the 2-year interval.

The FAA does not concur with either commenter's request to revise the compliance times specified in paragraph (b) of this AD. As stated previously, the compliance times specified in paragraph (b) of this AD simply restate the same compliance times specified in the SID AD. In developing appropriate compliance times for repetitive inspections of flight-critical items, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the required actions. The FAA also considered service experience and the fatigue life of the structure in the area of the airplane in which these items are located as well. The FAA has determined that the compliance times, as proposed, represent the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required actions without compromising safety.

One commenter recommends that the proposed compliance time for reporting inspection results, as specified in

paragraph (c) of the proposed rule, be changed from 48 hours to 72 hours. As its basis for an extension to the compliance time, the commenter cites Federal Aviation Regulation (FAR) 121.703(d), which requires certificate holders to submit reports of service difficulties to the FAA within 72 hours. The FAA concurs with the commenter's request to extend the compliance for submitting inspection results to 72 hours. Paragraph (c) of the final rule has been revised accordingly.

One commenter requests that reporting inspection results, as would be required by paragraph (c) of the proposal, be limited to initial inspection findings only. The commenter believes it is pointless to continue reporting inspection results once the integrity of the control surface attachments has been established. Two commenters point out that operators already report inspection findings to General Dynamics as part of the SID program.

The FAA concurs partially. The FAA plans to determine the scope of the problem addressed in this AD and to establish a database from both positive and negative results of the initial inspections. Therefore, reporting of both positive and negative findings applies to initial inspection findings. However, the FAA considers that only positive results of subsequent inspections are necessary for submission to the FAA. For purposes of this AD, a "positive" inspection result is defined as any finding of a discrepant part in the pin, bushing, or support structure. Paragraph (c) of the final rule has been revised accordingly.

One commenter explains that the proposed requirements have been accomplished on three of the airplanes in its fleet at a cost per airplane that is higher than the cost estimated in the proposal. The FAA infers that this commenter requests that the cost estimate reflected in the preamble to the proposal be increased. The economic analysis for this particular action has been limited only to the cost of the actions actually required by the rule, that is, the cost of inspections themselves. It does not include the costs of "on condition" actions, i.e., "replace, if necessary," since those actions would be required to be accomplished, regardless of AD direction, in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. The FAA finds that, based on the latest information available to date, 50 work hours, as estimated in the proposal, is a reasonable calculation for accomplishment of the inspections required by this AD, excluding costs for parts and flight tests.

One commenter recommends that the proposed rule be revised to require inspections of the nut plate assembly. The commenter explains that the nut plate assembly is a separate part from the bearing plate assembly, which the proposal specifically calls out for inspection. The FAA clarifies that its intent is that operators accomplish the inspections described in the applicable service bulletin, which includes inspection of the nut plate assembly.

This commenter also requests clarification as to whether the FAA intends to allow the rework of pins and bushings to obtain correct mating of these parts. The commenter believes that if individual hinge pins and bushings are installed and the tapers do not match within a specified minimum contact, maintenance personnel might attempt to rework these parts in order to attain the proper minimum conical surface contact.

The FAA clarifies that paragraph (a)(3) of the proposal references the procedure for reinstallation of the elevator and rudder hinge pins and bushings, which is specified in Parts 2.A.5. and 2.B.5. of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55–7. Those parts of the service bulletin reference Part 2.C.(4) of General Dynamics, Convair Division, Service Bulletin 640(340D)55–5, which describes procedures for obtaining satisfactory installation of elevator and hinge pins, emphasizing that when reinstalling the pins, care should be taken to ensure proper mating of tapered surfaces. In addition, Part 2.C.(4)(d) describes rework of the pin, citing Part II of the Accomplishment Instructions of the service bulletin for specific details concerning the rework.

In sum, while replacement of pins and bushings with matched sets of parts is preferable, if an operator can verify that: (1) The replacement parts are FAA-approved parts, (2) the replacement parts have the correct hardness, and (3) the tapers of the pins and bushings are properly mated, the operator may install those pins and bushings as replacement parts.

This commenter also states that the Allison bushing, part number 9015192, which is referenced in paragraph (a)(2)(ii) of the proposal, is not part of pin assembly 240–2010908–3. The commenter believes that the Allison bushing "supersedes" the GD/Convair bushing (part number 340–2015903), which is also referenced in that paragraph. The FAA infers that the commenter means the GD/Convair bushing should no longer be used, since the Allison bushing replaces it. The FAA does not concur. The FAA has determined that either the GD/Convair bushing or the Allison bushing, both of which are listed in paragraph (a)(2)(ii) of the AD, may be used in the pin assembly.

This commenter also questions whether use of the term "serviceable" is appropriate in relation to replacement of discrepant parts. The commenter cites another AD that also addresses improperly heat-treated parts, but requires replacement of discrepant parts with "new FAA approved parts." The FAA clarifies that any replacement part installed on an airplane must be FAA-approved. In the case of this AD, a replacement part may not necessarily be a "new" part. Again, if an operator can verify that (1) the replacement parts are FAA-approved parts, (2) the replacement parts have the correct hardness, and (3) the tapers of the pins and bushings are properly mated, the operator may install those pins and bushings as replacement parts.

This commenter also asks that a statement be included in the AD stating that all unserviceable parts must be rendered unserviceable by the operators. The commenter believes that such a statement will ensure that unserviceable parts do not reappear in the field.

The FAA does not concur with the commenter's request to add such a statement to the final rule. It is common practice for an operator to render a part unserviceable and not return that part to the field for installation; therefore, it is unnecessary to include a statement to that effect in this AD. In addition, the FAA clarifies that since part 39 of the Federal Aviation Regulations (FAR) specifies that AD's apply to aircraft, aircraft propellers, or appliances (referred to as "products"), AD's are not written against parts that are not installed on a product. Therefore, it would be inappropriate to address such parts in this AD. However, paragraph (d) of the final rule has been included specifically to ensure that unserviceable pins and bushings will not be installed on any airplane after the effective date of this AD.

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

There are approximately 320 Model 340, 440, and C–131 (military) series airplanes of the affected design in the

worldwide fleet. The FAA estimates that 240 airplanes of U.S. registry will be affected by this AD, that it will take approximately 50 work hours per airplane to accomplish the required inspection actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $660,000, or $2,750 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The number of required work hours for the requirements of this AD, as indicated above, is presented as if the accomplishment of those actions were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours will be minimal in many instances. Additionally, any costs associated with special airplane scheduling will be minimal.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93-24-06 General Dynamics (Convair): Amendment 39-8755. Docket 93-NM-44-AD.

Applicability: All Model 340, 440, and C-131B through C-131H (military) series airplanes, certificated in any category, including those airplanes modified for turbo-propeller power.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of an elevator or rudder, resulting from installation of a suspected unapproved part, accomplish the following:

(a) Within 400 hours time-in-service or 180 days after the effective date of this AD, whichever occurs first, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Remove the elevators and rudder in accordance with Parts 2.A.1. and 2.B.1., respectively, of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993; perform a detailed visual inspection of the elevator and rudder hinge pins and bushings to detect wear in accordance with the procedures described in Part 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Service Bulletin 640(340D)55-5, dated September 21, 1990; and perform a detailed visual inspection of the elevator and rudder bearing plate assemblies to detect cracks and of the elevator and rudder bearings to detect chattering, looseness, dryness, or binding in accordance with Parts 2.A. and 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993.

(i) If any pin or bushing is worn, prior to further flight, replace the worn pin or bushing with a serviceable pin or bushing in accordance with the procedures described in Part 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Service Bulletin 640(340D)55-5, dated September 21, 1990.

(ii) If any cracked bearing plate assembly is found, prior to further flight, replace the cracked bearing plate assembly with a serviceable bearing plate assembly in accordance with Part 2.A. or 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993.

(iii) If any chattering, loose, dry, or seized bearing is found, prior to further flight, replace the discrepant bearing with a serviceable bearing in accordance with Part 2.A. or 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993.

(2) Perform a hardness test to determine the equivalent strength of the elevator and rudder hinge pins and bushings in accordance with normal maintenance procedures. If the equivalent strength of any pin or bushing does not meet the type design strength specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable, prior to further flight, replace the discrepant pin or bushing with a serviceable pin or bushing in accordance with Part 2.A. or 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993. Elevator and rudder hinge pins and bushings received directly from Convair that bear the Convair mark are excluded from the requirements of this paragraph. The Convair mark is an etched mark, which appears as follows:

CV
SD

The Convair mark is located on the top of the hinge pin and on the top of the bushing.

(i) For airplanes having pin assembly 240-2010908-1, the pins and bushings must meet type design strengths specified as follows:

Part	Part No.	Type design strength
Pin	GD/Convair 240-2010904.	170-195 ksi
Bushing	GD/Convair 240-2010903-7.	120-145 ksi

(ii) For airplanes having pin assembly 240-2010908-3, the pins and bushings must meet type design strengths specified as follows:

Part	Part No.	Type design strength
Pin	GD/Convair 240-2010904.	170-195 ksi
Bushing	GD/Convair 340-2015903.	125-145 ksi
Bushing	Allison 9015192	120-145 ksi

(3) Reinstall the elevator and rudder, and ensure that proper mating of the pin and bushing tapered surfaces exists in accordance with Parts 2.A.5. and 2.B.5. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993.

(b) Repeat the requirements of paragraphs (a)(1) and (a)(3) of this AD at intervals not to exceed 2,000 hours time-in-service or 2 years, whichever occurs first, in accordance with Item 55-2-9 of General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS-34-1000, Revision 1, dated April 15, 1991, including Addenda I, II, and III, all dated April 15, 1991.

Note 1: Paragraph (b) of this AD restates a requirement for repetitive actions contained in AD 92-06-06, Amendment 39-8186.

Accomplishment of paragraphs (a)(1) and (a)(3) of this AD satisfies the corresponding requirements contained in AD 92-06-06.

(c) In accordance with the schedules specified in paragraphs (c)(1) and (c)(2) of this AD, report inspection results to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; fax (310) 988-5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) Within 72 hours after accomplishing the initial inspection required by paragraph (a) of this AD, report inspection results, positive or negative. A "positive" inspection result is defined as any finding of a discrepant part in the pin, bushing, or support structure.

(2) Within 72 hours after accomplishing any repetitive inspection required by paragraph (b) of this AD, report any positive inspection result.

(d) As of the effective date of this AD, no person shall install an elevator or rudder hinge pin or bushing on any airplane unless, prior to installation, the pin or bushing has been tested for hardness and meets the specified type design strength in accordance with paragraph (a)(2) of this AD, or unless the pin or bushing bears the Convair mark described in that paragraph.

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

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

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

(g) The elevator/rudder removal and reinstallation, replacements, and inspections shall be done in accordance with General Dynamics, Convair Division, Service Bulletin 640(340D)55-5, dated September 21, 1990; General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993; and General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS-34-1000, Revision 1, dated April 15, 1991, including Addenda I, II, and III, all dated April 15, 1991; as applicable. The incorporation by reference of General Dynamics, Convair Division, Service Bulletin 640(340D)55-5, dated September 21, 1990; and General Dynamics, Convair Division, Alert Service Bulletin 640(340D) S. B. No. A55-7, dated March 22, 1993; was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The incorporation by reference of General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS-34-1000, Revision 1, dated April 15, 1991, including Addenda I, II, and III, all dated April 15, 1991, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 as of April 22, 1992 (57 FR 9382, March 18, 1992). Copies may be obtained from General Dynamics, Convair Division, P.O. Box 85377, San Diego, California 92186-5377. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on January 18, 1994.

Issued in Renton, Washington, on November 29, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-30098 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-95-AD; Amendment 39-8759; AD 93-24-10]

Airworthiness Directives; Learjet Model 55, 55B, and 55C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Learjet Model 55, 55B, and 55C airplanes, that requires modification of the wiring inside and between the left- and right-hand generator interface boxes. This amendment is prompted by a report that an electrical short occurred in the generator interface box wiring during flight on a Learjet Model 55 airplane and resulted in the failure of both generators. The actions specified by this AD are intended to prevent the loss of both generators during flight, which could result in the possible loss of all communication and navigation equipment.

DATES: Effective January 18, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 18, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Learjet Corporation, Customer Services, P.O. Box 7707, Wichita, Kansas 67277-7707. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register; 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: C. Dale Bleakney, Aerospace Engineer, Systems and Equipment Branch, ACE-130W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4135; fax (316) 946-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Learjet Model 55, 55B, and 55C airplanes was published in the **Federal Register** on August 9, 1993 (58 FR 42262). That action proposed to require modification of the wiring inside and between the left- and right-hand generator interface boxes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 145 Model 55, 55B, and 55C airplanes of the affected design in the worldwide fleet The FAA estimates that 102 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $73 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $46,716, or $458 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612,

it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93-24-10 Learjet: Amendment 39-8759. Docket 93-NM-95-AD.

Applicability: Model 55, 55B, and 55C airplanes; serial numbers 55-003 through 55-147, inclusive; certified in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of both generators during flight, accomplish the following:

(a) Within 100 hours time-in-service or 90 days after the effective date of this AD, whichever occurs later, modify the wiring inside the left- and right-hand generator interface boxes and between these two boxes, and perform an operational test of the DC power distribution system in accordance with Learjet Service Bulletin SB 55-24-4, dated May 3, 1993.

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

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

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

(d) The modification and operational test shall be done in accordance with Learjet Service Bulletin SB 55-24-4, dated May 3, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Learjet Corporation, Customer Services, P.O. Box 7707, Wichita, Kansas 67277-7707. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 18, 1994.

Issued in Renton, Washington, on December 3, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-30099 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-ANE-15; Amendment 39-8746; AD 93-23-10]

Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Pratt & Whitney JT8D200 series turbofan engines, that requires installation of improved high pressure turbine (HPT) containment hardware. This amendment is prompted by reports of HPT shaft fractures causing uncontained HPT failures. The actions specified by this AD are intended to prevent damage to the aircraft resulting from uncontained engine debris following an HPT shaft fracture.

DATES: Effective on January 18, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 18, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, Publications Department, 400 Main St., East Hartford, CT 06108. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7137, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) JT8D-200 series turbofan engines was published in the **Federal Register** on December 7, 1992 (57 FR 57705). That action proposed to require installation of improved high pressure turbine (HPT) containment hardware at the next shop visit but not later than January 1, 1998, in accordance with PW Alert Service Bulletin (ASB) No. 6053, Revision 4, dated September 11, 1992.

On April 15, 1993, (58 FR 19634) the Federal Aviation Administration (FAA) published a notice reopening the comment period. The reopening of the comment period was prompted by a Petition to Reopen the Comment Period from the Air Transport Association of America (ATA) that requested the comment period be reopened for an additional 60 days to allow additional evaluation by the manufacturer and operators of alternatives to the proposed engine containment program.

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

Four comments state that the weight increase of 65 lbs. per engine associated with the installation of the containment hardware will have a significant impact on the cost of operating the aircraft due to higher fuel consumption. The FAA agrees that aircraft would use more fuel due to the increased weight; however, the FAA has determined that this cost increase is outweighed by the increase in safety attendant to the lower risk of aircraft damage after installation of the containment hardware.

One comment states that the cost of incorporating the containment hardware associated with the AD is excessive compared to the benefit to flight safety attained. The FAA does not concur. The FAA has determined that this cost increase is outweighed by the increase in safety attendant to the lower risk of aircraft damage after installation of the containment hardware.

One comment recommends alternatives to installing containment hardware, such as No. 4/5 bearing compartment temperature monitoring, No. 4/5 bearing compartment design improvements, and design of internal containment hardware. The FAA does not concur. The technical alternatives presented in the submitted comments were evaluated by the FAA as options and found either to increase the risk of damage resulting from an uncontained engine failure to an unacceptable level or to be too costly.

One comment further defines the "next shop visit" compliance requirement to specify parts availability and exposure of affected engine components. The FAA does not concur. The specification of these additional criteria in the compliance requirements in the proposed rule would increase the risk of an uncontained failure to an unacceptable level. Other compliance options such as "at exposure of the affected components" were considered and found to increase the risk of damage from an uncontained engine failure to an unacceptable level. The FAA has received data on parts availability and has determined that the rule will not cause any undue hardship due to the availability of parts.

Two comments request an "FAA–ATA–Industry" meeting to evaluate the proposed containment hardware and other alternatives. The FAA does not concur. The FAA has determined that an industry meeting would not be necessary since the alternatives recommended by the ATA members have been evaluated and found either to increase the risk of damage resulting from an uncontained engine failure to an unacceptable level or to be too costly.

Two comments agree with the rule as proposed.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Since publication of the NPRM, the manufacturer has issued PW ASB No. 6053, Revision 7, dated May 24, 1993. This final rule references this latest revision. However, installation of HPT containment hardware done in accordance with PW ASB No. 6053, dated November 7, 1991; Revision 1, dated February 3, 1992; Revision 2, dated March 31, 1992; Revision 3, dated May 15, 1992; Revision 4, dated September 11, 1992; Revision 5, dated January 29, 1993; and Revision 6, dated February 8, 1993, are considered an alternate method of compliance to this AD.

There are approximately 2,432 PW JT8D–200 series engines of the affected design in the worldwide fleet. The FAA estimates that 1,041 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 41 work hours per engine to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $18,405 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $21,507,060.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93–23–10 Pratt & Whitney: Amendment 39–8746. Docket 92–ANE–15.

Applicability: Pratt & Whitney (PW) Model JT8D–209, –217, –217A, –217C, and –219 turbofan engines, as listed in paragraph 1(a) of PW Alert Service Bulletin (ASB) No. 6053, Revision 7, dated May 24, 1993, installed on but not limited to McDonnell Douglas MD80 and Boeing 727 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the aircraft resulting from uncontained engine debris following a high pressure turbine (HPT) shaft fracture, accomplish the following:

(a) At the next shop visit after the effective date of this AD, but not later than January 1, 1998, install the improved HPT containment hardware described in, and in accordance with the Accomplishment Instructions of PW ASB No. 6053, Revision 7, dated May 24, 1993. Installation of HPT containment hardware done in accordance with PW ASB No. 6053, dated November 7, 1991; Revision 1, dated February 3, 1992; Revision 2, dated March 31, 1992; Revision 3, dated May 15, 1992; Revision 4, dated September 11, 1992; Revision 5, dated January 29, 1993; and Revision 6, dated February 8, 1993, are considered an alternate method of compliance to this AD.

(b) For the purpose of this AD, a shop visit is defined as an engine removal where engine maintenance entails separation of pairs of mating engine flanges or the removal of a disk, hub, or spool.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(e) The modification shall be done in accordance with the following alert service bulletin:

Document No.	Pages	Revision	Date
PW ASB No. 6053.	1	7	May 24, 1993.
	2	5	Jan. 29, 1993.
	3	4	Sept. 11, 1992.
	4–5	7	May 24, 1993.
	6–7	4	Sept. 11, 1992.
	8–11	7	May 24, 1993.
	12–14	Original	Nov. 7, 1991.
	15	4	Sept. 11, 1992.
	16–17	Original	Nov. 7, 1991.
	18–39	7	May 24, 1993.

Total Pages: 39.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, Publications Department, 400 Main St., East Hartford, CT 06108. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 18, 1994.

Issued in Burlington, Massachusetts, on November 19, 1993.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–29244 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 93–AWA–9]

Revocation of Class C and Class E Airspace; San Bernardino, Norton Air Force Base, CA, and Alteration of Class C Airspace; Ontario International Airport, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class C and Class E airspace areas at Norton Air Force Base (AFB), San Bernardino, CA, as a result of the closure of Norton AFB on August 31, 1993. This rule also amends the Class C airspace area at the Ontario International Airport, CA. The modification of the Ontario Class C airspace area will extend east 3.5 miles south of Foothill Boulevard and north of lat. 34°00′40″ N. in the vicinity of PETIS Radio Beacon. This will ensure that the level of aviation safety remains unchanged after the San Bernardino, CA, Class C airspace area is revoked.

EFFECTIVE DATE: 0901 u.t.c., January 6, 1994.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes the Class C and Class E airspace areas at San Bernardino, Norton AFB, CA. This revocation is a result of the closure of Norton AFB on August 31, 1993. Also, the Norton AFB operations, along with its weather reporting capabilities, are closed. This action also modifies the Class C airspace area at Ontario International Airport, CA. The FAA has determined that revoking the San Bernardino Class C airspace area will reduce controlled airspace and expose the arrival flow of instrument flight rules (IFR) traffic to the Ontario International Airport with visual flight rules (VFR) traffic, causing a complex mixture of air traffic in the area of the PETIS Radio Beacon. The modification to the Ontario Class C airspace area will extend east 3.5 miles south of Foothill Boulevard and north of lat. 34°00′40″ N. in the vicinity of PETIS Radio Beacon. This will ensure that the same level of aviation safety remains intact. There will no longer be Air Force activity at the Norton AFB. Consequently, the controlled airspace to the surface at Norton AFB must be removed to avoid confusion on the part of the pilots flying in the vicinity of the Norton AFB and to promote safe and efficient handling of air traffic in the area. Therefore I find that notice and public procedures under 5 U.S.C. 553(b) are impracticable and good cause exists, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days. Class C and Class E airspace designations are published in paragraphs 4000 and 6003, respectively, of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class C and Class E airspace designations listed in this document will be removed from or published subsequently in the Order.

Regulatory Evaluation Summary

The FAA has determined that this final rule is not a "significant regulatory action," as defined by Executive Order 12866 (Regulatory Planning and Review). The FAA has also determined that this regulation is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The anticipated costs and benefits associated with this final rule are summarized below. (A detailed discussion of costs and benefits is contained in the full evaluation in the docket for this final rule.)

This final rule will revoke the Norton AFB Class C and E airspace areas. This action is a result of the closure of Norton AFB on August 31, 1993. In addition, this final rule will modify the Ontario, CA, Class C airspace area by expanding the boundaries 3.5 miles to the east of Ontario International Airport. This modification is necessary to prevent a potential deterioration of safety that could result from greater mixing of VFR operations and IFR operations once the Class C airspace at Norton AFB is revoked. The FAA has determined that the revocation of the Class C airspace area at Norton AFB will reduce the controlled airspace and expose the arrival flow of IFR traffic to the Ontario International Airport to more potentially conflicting VFR traffic.

The Class C airspace area concept (like that for Class B airspace, though to a lesser extent) was developed to reduce the likelihood of midair collisions in the congested airspace surrounding large air transportation hubs in which large turbine-powered aircraft are mixing with smaller aircraft of varying performance characteristics. In addition, VFR and IFR aircraft are also mixing. As this complexity increases, so does the potential for midair collisions. This type of condition warrants an expansion of Class C airspace, providing more positive control of aircraft in the outlying areas surrounding major terminals.

The primary benefit of this final rule is that it will ensure that the current level of aviation safety remains intact. The termination of the Norton AFB Class C airspace area will permit transiting VFR aircraft to fly closer to Ontario International Airport without entering the Class C airspace area. In order to minimize potential conflicts with traffic intending to land or take off from the Ontario International Airport, the FAA has concluded that the Class C airspace area at Ontario, CA, should be expanded 3.5 miles to the east.

This final rule will have a positive impact on operational efficiency by

allocating additional airspace to users who choose to avoid Class C airspace. The revocation of Class C airspace at Norton AFB will significantly contract controlled airspace in the vicinity of Ontario International Airport. Aircraft operators who previously circumnavigated the Norton AFB Class C airspace area will be able to fly into this airspace without contacting air traffic control or having to satisfy associated avionics requirements. The planned expansion in the Ontario Class C airspace area will involve airspace that formerly belonged to the Norton Class C airspace. Therefore, no additional airspace will be converted into Class C airspace.

This final rule will not impose additional administrative cost on the FAA for either personnel or equipment. The additional operations workload the final rule is expected to generate can be handled with current personnel and equipment resources in place at the Ontario, CA, Class C airspace area. Another potential cost to the FAA associated with the rule would be the revision of aeronautical charts to reflect the change in airspace around Ontario International Airport. The change will be incorporated during the routine updating and printing of the charts, however, so that all costs associated with printing aeronautical charts are assumed to be a normal cost of doing business.

This final rule is not expected to impose any incremental costs on users of the Ontario, CA, Class C airspace area. This assessment is based on the fact that the final rule will only modify the Ontario, CA, Class C airspace area by expanding it 3.5 miles to the east of Ontario International Airport. This additional airspace will be taken from the Norton AFB Class C airspace area. Any users of this airspace [i.e., pilot schools, air taxi operators, general aviation operators] will be able to continue their flying practices in the same manner as before. Thus, the final rule will not adversely affect these airspace users.

This final rule will not impose any costs on either the FAA, the aviation community, or society. Although the FAA concludes that this rule will not have an impact on safety other than to ensure the maintenance of current levels, the rule is expected to promote the efficiency of operations. Thus, the FAA contends that is final rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities." The types of small entities that will be potentially affected by the implementation of the final rule are air taxi operators and pilot schools.

Neither air taxi operators nor pilot schools will be impacted by this planned expansion. This assessment is based on the fact that this expansion will capture 3.5 miles of airspace that was previously included in the Norton AFB Class C airspace area. Current users of this airspace will be able to continue to do so in the same manner as before. Thus, there will be no incremental cost impact on these operators as a result of this final rule.

International Trade Impact Assessment

This final rule will not have an effect on the sale of foreign aviation products or services in the United States, nor will it have an effect on the sale of U.S. products or services in foreign countries because the rule will neither impose costs on aircraft operators nor aircraft manufacturers (U.S. or foreign).

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, date June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

AWP CA C Ontario International Airport, CA [Revised]

Ontario International Airport
(lat. 34°03′22″ N., long. 117°36′04″ W.)
Cable Airport
(lat. 34°06′43″ N., long. 117°41′15″ W.)
Chino Airport
(lat. 33°58′31″ N., long. 117°38′13″ W.)

That airspace extending upward from the surface to and including 5,000 feet MSL within a 5-mile radius of the Ontario International Airport, excluding that airspace within a 1.5-mile radius of the Cable Airport and that airspace within a 2-mile radius of the Chino Airport, and that airspace extending upward from 2,700 feet MSL to and including 5,000 feet MSL within the area bounded by a line beginning at the intersection of the Ontario International Airport 5-mile radius and the Cable Airport 1.5-mile radius; thence clockwise along the 1.5-mile radius to intersect with Foothill Boulevard, thence westward along Foothill Boulevard to intersect with the Ontario International Airport 10-mile radius, thence counterclockwise along the 10-mile radius to intersect with lat. 34°00′40″ N., long. 117°24′29″ W., thence east along lat. 34°00′40″ N., long. 117°20′09″ W., thence north to Foothill Boulevard, thence west along Foothill Boulevard to the intersection of Foothill Boulevard and the Ontario International Airport 5-mile radius.

* * * * *

AWP CA C San Bernardino, Norton AFB, CA [Removed]

* * * * *

Paragraph 6003—Subpart E—Class E airspace areas designated as an extension to a Class C surface area

* * * * *

AWP CA E3 San Bernardino, CA [Removed]

* * * * *

Issued in Washington, DC, on December 8, 1993.

Willis C. Nelson,

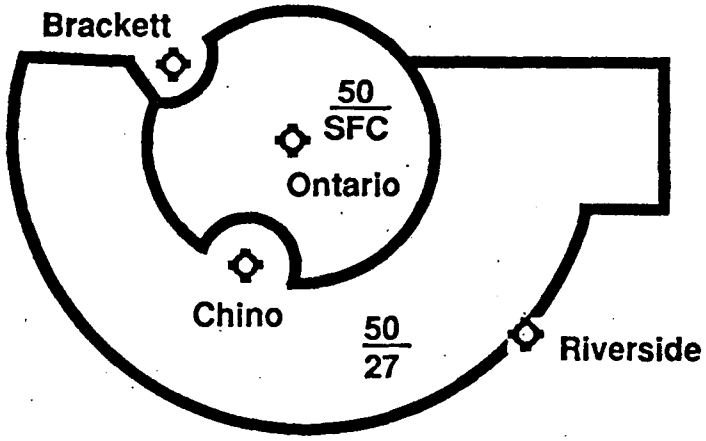
Acting Manager, Airspace—Rules and Aeronautical Information Division.

BILLING CODE 4910–13–M

ONTARIO, CA
CLASS C AIRSPACE AREA

FIELD ELEVATION - 943 FEET

(Not to be used for navigation)



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Branch
ATP-220

[FR Doc. 93-30826 Filed 12-16-93; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 93-ANM-8]

Amendment of Class E Airspace; Tillamook, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Tillamook, Oregon, Class E airspace. Modifying controlled airspace extending from 700 feet above ground level (AGL) is necessary for an amended instrument approach procedure at Tillamook Municipal Airport, Tillamook, Oregon. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," replacing it with the designation "Class E airspace." The airspace will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 u.t.c., March 3, 1994.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 93-ANM-8, 1601 Lind Avenue SW., Renton, Washington 98055-4056, Telephone: (206) 227-2535.

SUPPLEMENTARY INFORMATION:

History

On August 18, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Tillamook, Oregon, Class E Airspace (58 FR 43826).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," and airspace extending upward from 700 feet or more above the surface of the earth is now Class E airspace. Class E airspace designations for airspace areas extending 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the Class E airspace at Tillamook, Oregon, to provide additional controlled airspace for aircraft executing an amended instrument approach procedure at Tillamook Municipal Airport, Tillamook, Oregon.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ANM OR E5 Tillamook, OR [Revised]

Tillamook Airport, OR

(lat. 45°25'07" N, long. 123°48'49" W)

Wilson NDB, OR

(lat. 45°29'05" N, long. 123°51'23" W)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Tillamook Airport, and within 2.5 miles each side of the 148° and 328° bearings of the Wilson NDB extending from the 7.4-mile airport radius to 7 miles northwest of the Wilson NDB.

* * * * *

Issued in Seattle, Washington, on November 24, 1993.

Helen M. Parke,

Assistant Manager, Air Traffic Division Northwest Mountain Region.

[FR Doc. 93-30829 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 92-ASW-11]

Revision of Class E Airspace: Fairview, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Fairview Municipal Airport, Fairview, OK. An amendment to the nondirectional radio beacon (NDB) Runway (RWY) 17 standard instrument approach procedure (SIAP), utilizing the Fairview NDB, has made this action necessary. Controlled airspace extending upward from 700 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action is intended to provide adequate Class E airspace for IFR operations at Fairview Municipal Airport, Fairview, OK.

EFFECTIVE DATE: 0901 u.t.c., March 3, 1994.

FOR FURTHER INFORMATION CONTACT: Alvin DeVane, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone 817-222-5590.

SUPPLEMENTARY INFORMATION:

History

On August 26, 1992, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area at Fairview, OK, was published in the **Federal Register** (57 FR 38634). A SIAP, NDB RWY 17, was amended for Fairview Municipal Airport, Fairview, OK. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain instrument flight rules (IFR) operations in controlled airspace during portions of the terminal operation and while transitioning between the en route and terminal environments.

Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Airspace reclassification, effective September 16, 1993, has discontinued

the use of the term "transition area," and airspace extending upward from 700 feet or more above the ground level is now Class E airspace. Other than the change in terminology, this amendment is the same as that proposed in the notice. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Class E airspace located at Fairview, OK. The amendment of an NDB RWY 17 SIAP at Fairview Municipal Airport has made this action necessary. The description of the transition area in the NPRM described the extension to the transition area for the NDB RWY 17 SIAP as the 006° bearing from the Fairview NDB. The magnetic deviation has since changed to 7° east; therefore, the new bearing is 007° from the Fairview NDB as the final inbound approach course to the Fairview NDB. This final rule properly describes the north extension as the 007° bearing from the Fairview NDB. The intended effect of this action is to provide adequate controlled airspace to contain IFR operations at this location.

The FAA has determined that this regulation only involves an established body of technical regulations that needs frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ASW OK E5 Fairview, OK [Revised]

Fairview, OK
(lat. 36°17'41" N., long. 98°28'55" W.)
Fairview NDB
(lat. 36°17'11" N., long. 98°28'68" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Fairview Municipal Airport and within 2.5 miles each side of the 007° bearing of the Fairview NDB extending from the 6.3-mile radius to 7 miles north of the Fairview Municipal Airport.

* * * * *

Issued in Fort Worth, TX, on December 1, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–30844 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 95

[Docket No. 27545; Amdt. No. 380]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: January 6, 1994.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a

significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on December 6, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 u.t.c., April 1, 1993:

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

PART 95—[AMENDED]

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 380—Effective Date, January 6, 1994]

From	To	MEA
§95.1001 Direct Routes—U.S.; Puerto Rico Routes; Route 1 is Amended to Read in Part		
Borinquen, PR VORTAC (*7000—MRA; **1300—MOCA)	*Utahs, PR FIX	**4000
Route 3 is Amended by Adding		
Jaaws, PR FIX (*7000—MRA; **1300—MOCA)	*Utahs, PR FIX	**9000
is Amended to Read in Part		
San Juan, PR VORTAC *1500—MOCA)	Jaaws, PR FIX	*3000
Route 6		
*Inham, PR FIX (*5000—MRA; **1300—MOCA)	Idaho, PR FIX	**16000
Route 7		
Tuuna, PR FIX (*4000—MRA)	*Sanlo, PR FIX	3500
§95.6009 VOR Federal Airway 9 is Amended to Read in Part		
Capital, IL VORTAC	Pontiac, IL VORTAC	3000
§95.6026 VOR Federal Airway 26 is Amended to Read in Part		
Obitt, SD FIX (*3200—MOCA)	Redwood Falls, MN VORTAC	*4600
§95.6044 VOR Federal Airway 44 is Amended to Read in Part		
Sea Isle, NJ VORTAC (*4000—MRA)	*Karrs, NJ FIX	1600
§95.6048 VOR Federal Airway 48 is Amended to Read in Part		
Peoria, IL VORTAC	Pontiac, IL VORTAC	3000
§95.6068 VOR Federal Airway 68 is Amended to Read in Part		
Corona, NM VORTAC	Honds, NM FIX:.	
	NW BND	9500
	SE BND	6500
Honds, NM FIX (*6000—MOCA)	Chisum, NM VORTAC	*9500
§95.6069 VOR Federal Airway 69 is Amended to Read in Part		
Capital, IL VORTAC	Pontiac, IL VORTAC	3000
Pontiac, IL VORTAC	Joliet, IL VORTAC	3000
§95.6083 VOR Federal Airway 83 is Amended to Read in Part		
Carlsbad, NM VORTAC	Chisum, NM VORTAC	5900
Chisum, NM VORTAC (*6000—MOCA)	Honds, NM FIX:.	
	NW BND	9500
	SE BND	6500
Honds, NM FIX	Corona, NM VORTAC	9500
Otto, NM VOR (*10500—MRA)	Lacro, NM FIX	9000
Lacro, NM FIX	Santa Fe, NM VORTAC	9000
§95.6100 VOR Federal Airway 100 is Amended to Read in Part		
Musky, MI FIX	Keeler, MI VORTAC	2400
Keeler, MI VORTAC	Litchfield, MI VORTAC	2600
§95.6116 VOR Federal Airway 116 is Amended to Read in Part		
Peoria, IL VORTAC	Pontiac, IL VORTAC	3000
Pontiac, IL VORTAC	Joliet, IL VORTAC	3000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 380—Effective Date, January 6, 1994]

From	To	MEA
§95.6130 VOR Federal Airway 130 Is Amended to Read in Part		
Bradley, CT VORTAC	Norwich, CT VORTAC	6000
§95.6227 VOR Federal Airway 227 Is Amended to Read in Part		
Roberts, IL VORTAC	Pontiac, IL VORTAC	3000
§95.6229 VOR Federal Airway 229 Is Amended to Read in Part		
Gared, MD FIX	Donil, DE FIX	8000
Donil, DE FIX (*1500—MOCA)	Atlantic City, NJ VORTAC	*2000
§95.6249 VOR Federal Airway 249 Is Amended to Read in Part		
Robbinsville, NJ VORTAC	Jeryy, NJ FIX	4000
Jeryy NJ FIX (*2000—MOCA)	Solberg, NJ VORTAC	*3000
Solberg, NJ VORTAC	Sparta, NJ VORTAC	3000
§95.6262 VOR Federal Airway 262 Is Amended to Read in Part		
Motif, IL FIX	Joliet, IL VORTAC	3000
§95.6268 VOR Federal Airway 268 Is Amended to Read in Part		
Smyrna, DE VORTAC (*1300—MOCA)	Leeah, NJ FIX	*1800
§95.6291 VOR Federal Airway 291 Is Amended to Read in Part		
Hobbs, NM VORTAC (*5500—MOCA)	Chisum, NM VORTAC	*6000
Chisum, NM VORTAC	Dupal, NM FIX	9500
Dupal, NM FIX	Corona, NM VORTAC	9500
Blini, NM FIX	Gallup, NM VORTAC	11000
§95.6363 VOR Federal Airway 363 Is Amended to Delete		
Mission Bay, CA VORTAC (*2000—MOCA)	Krauz, CA FIX	*4500
§95.6491 VOR Federal Airway 491 Is Amended to Read in Part		
Rapid City, SD VORTAC (*5500—MOCA)	Dickinson, ND VORTAC	*9000
§95.6500 VOR Federal Airway 500 Is Amended to Delete		
Shemya, AK VORTAC	Beltz, AK FIX	2500
Beltz, AK FIX (*4200—MOCA)	Creel, AK FIX	*11000
Creel, AK FIX	Amchitka/Dcmsnd, AK VORTAC	3500
Amchitka/Dcmsnd, AK VORTAC	Nutre, AK FIX	2500
Nutre, AK FIX (*6300—MOCA)	Adak (Navy), AK NDB	*11000
§95.6525 VOR Federal Airway 525 Is Amended to Delete		
Amchitka/Dcmsnd, AK VORTAC	Kodee, AK FIX	2500
Kodee, AK FIX (*2300—MOCA)	Fries, AK FIX	*11000
Fries, AK FIX (*7400—MOCA)	Adak (Navy), AK NDB	*11000
§95.6545 VOR Federal Airway 545 Is Amended to Read in Part		
Miles City, MT VORTAC (*5200—MOCA)	Williston, ND VORTAC	*6000
§95.6591 VOR Federal Airway 591 Is Amended to Read in Part		
Slolm, CO FIX	Snow, CO VOR/DME	14000
§95.6597 VOR Federal Airway 597 Is Added to Read		
Mission Bay, CA VORTAC	Oceanside, CA VORTAC	3000
Oceanside, CA VORTAC	Balbo, CA FIX	4000
Balbo, CA FIX	Seal Beach, CA VORTAC:.	
	NW BND	3000
	SE BND	4000
Seal Beach, CA VORTAC	Darts, CA FIX:.	
	NW BND	6000
	SE BND	4000
Darts, CA FIX	Van Nuys, CA VOR/DME	5000
Van Nuys, CA VOR/DME (*6100—MCA FILLMORE VORTAC, W BND).	*Fillmore, CA VORTAC	5500
Fillmore, CA VORTAC (*9000—MRA)	*Ohigh, CA FIX	8000
Ohigh, CA FIX	San Marcus, CA VORTAC	8000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 380—Effective Date, January 6, 1994]

From	To	MEA
§95.6420 Hawaii VOR Federal Airway 20 is Amended to Read in Part		
Julie, HI FIX	Jorda, HI FIX	5000
Jorda, HI FIX	Crisi, HI FIX	10000

From	To	MEA	MAA
§95.7133 Jet Route No. 133 is Amended to Read in Part			
Biorka Island, AK VORTAC	Humpy, AK FIX	24000	45000
Humpy, AK FIX	Hinchinbrook, AK NDB	18000	45000
§95.7237 Jet Route No. 237 is Amended to Delete			
Shemya, AK VORTAC	Amchitka/Dcmsnd, AK VORTAC	18000	45000
Amchitka/Dcmsnd, AK VORTAC	Adak (Navy), AK NDB	18000	45000
§95.7238 Jet Route No. 238 is Amended to Delete			
Amchitka/Dcmsnd, AK VORTAC	Fries, AK FIX	18000	45000
Fries, AK FIX	Adak (Navy), AK NDB	18000	45000

[FR Doc. 93-30834 Filed 12-16-93; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 27541; Amdt. No. 1576]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

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

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

The Rule

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

criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Standard Instrument Approaches, Incorporation by reference, Navigation (air).

Issued in Washington, DC on December 3, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

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

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

Effective	State	City	Airport	FDC No.	SIAP
11/16/93	CA	San Francisco	San Francisco Intl	3/6355	VOR–B AMDT 5A...
11/18/93	AK	Ketchikan	Ketchikan Intl	3/6269	ILS/DME–1 RWY 11 AMDT 5A...
11/18/93	AK	Ketchikan	Ketchikan Intl	3/6270	NDB/DME–A AMDT 6...
11/18/93	CO	Rifle	Garfield County Regional.	3/6271	LOC/DME–A AMDT 5...
11/18/93	NJ	Linden	Linden	3/6260	VOR–C, ORIG A...
11/19/93	HI	Kahului	Kahului	3/6285	NDB/DME RWY 2 AMDT 1...
11/26/93	CT	Hartford	Hartford-Brainard	3/6353	VOR–A AMD 9...
11/26/93	CT	Hartford	Hartford-Brainard	3/6354	LDA RWY 2 AMDT 1...
12/01/93	SC	Columbia	Columbia Metropolitan.	3/6412	ILS RWY 29 AMDT 3A...
12/01/93	SC	Columbia	Columbia Metropolitan.	3/6416	ILS RWY 11 AMDT 13...
12/02/93	SC	Charleston	Charleston AFB/Intl	3/6440	ILS RWY 15 AMDT 20...
12/03/93	MO	Kansas City	Kansas City Intl	3/6457	ILS RWY 19R AMDT 8...

[FR Doc. 93–30836 Filed 12–16–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27540; Amdt. No. 1575]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

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

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

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on December 3, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

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

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

** * * Effective March 3, 1994*

Courtland, AL, Industrial Airpark, VOR RWY 13, Orig.
Harrison, AR, Boone County, LOC/DME RWY 36, Amdt. 7
Harrison, AR, Boone County, NDB-B, Amdt. 1
Mountain View, AR, Harry E. Wilcox Memorial Field, NDB-A, Amdt. 1
Warren, AR, Warren Muni, VOR/DME-A, Amdt. 4
Fort Huachuca//Sierra Vista, AZ, Libby AAF/Sierra Vista Muni, RADAR-2, Orig.
San Diego, CA, San Diego Intl-Lindbergh Fld, ILS RWY 9, Amdt. 1
Tallahassee, FL, Tallahassee Regional, ILS RWY 27, Amdt. 4
Holdenville, OK, Holdenville, Muni, NDB RWY 17, Amdt. 3
Idabel, OK, Idabel, NDB RWY 17, Amdt. 2
Seminole, OK, Seminole Muni, NDB RWY 16, Amdt. 2
Carlsbad, NM, Cavern City Air TRML, VOR RWY 32L, Amdt. 5
Carlsbad, NM, Cavern City Air TRML, ILS RWY 3, Amdt. 4
Carlsbad, NM, Cavern City Air TRML, VOR/DME RNAV RWY 14R, Amdt. 2
Bay City, TX, Bay City Muni, VOR/DME-A, Amdt. 4
Bay City, TX, Bay City Muni, NDB RWY 13, Amdt. 3
Clarendon, TX, Clarendon Muni, NDB RWY 1, Amdt. 2

Highgate, VT, Franklin County State, VOR/DME RWY 19, Amdt. 1
South Hill, VA, Mecklenburg-Brunswick Regional, NDB RWY 1, Amdt. 1
Burlington, WI, Burlington Muni, VOR-A, Amdt. 1
Burlington, WI, Burlington Muni, VOR RWY 29, Amdt. 7

* * * *Effective February 3, 1994*

Sioux Center, IA, Sioux Center Muni, NDB RWY 17, Amdt. 4

* * * *Effective January 6, 1994*

Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, ILS RWY 9L, Amdt. 17
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, ILS RWY 27R, Amdt. 5
Adel, Ga, Cook County, VOR/DME-A, Orig.
Chicago, Il, Lansing Muni, VOR-A, Amdt. 5
Le Mars, IA, Le Mars Muni, VOR/DME RWY 36, Amdt. 1
Le Mars, IA, Le Mars Muni, NDB RWY 18, Amdt. 9
Oscoda, MI, Oscoda-Wurtsmith, VOR RWY 6, Orig.
Oscoda, MI, Oscoda-Wurtsmith, ILS/DME RWY 24, Orig.
Caledonia, MN, Houston County, NDB RWY 31, Amdt. 1, CANCELLED
Cook, MN, Cook Muni, NDB RWY 31, Amdt. 1
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, VOR RWY 13, Orig.
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, VOR RWY 17, Amdt. 6B, CANCELLED
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, VOR/DME RWY 31, Amdt. 3B, CANCELLED
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, VOR RWY 35, Amdt. 9
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, NDB RWY 31, Orig.
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, ILS RWY 31, Orig.
Caldwell, OH, Noble county, VOR-A, Amdt. 1

* * * *Effective December 3, 1993*

Kansas City, MO, Kansas City Intl, ILS RWY 19R, Amdt. 9

* * * *Effective December 1, 1993*

Las Vegas, NV, McCarran Intl, ILS RWY 25L, Amdt. 2

* * * *Effective November 22, 1993*

Moberly, MO, Omar N Bradley, VOR/DME-A, Amdt. 3
Moberly, MO, Omar N Bradley, NDB RWY 13, Amdt. 4
Moberly, MO, Omar N Bradley, NDB RWY 31, Amdt. 4

* * * *Effective November 19, 1993*

Columbus-West Point/Starkville, MS, Golden Triangle Regional, LOC/DME BC, RWY 36, Amdt. 6
Atlanta, TX, Atlanta Muni, NDB RWY 5, Amdt. 2
Jackson, WY, Jackson Hole, VOR/DME RWY 36, Amdt. 4

* * * * *

Note: The FAA published an Amendment in Docket No. 27530, Amdt. No. 1573 to Part 97 of the Federal Aviation Regulations (Vol. 58 FR, No. 228, Page 63065; dated Tuesday November 30, 1993) under Section 97.27 Effective 6 JAN 94, which is hereby amended as follows:

Louisville, KY, Bowman Field, NDB RWY 32, Amdt. 15 is hereby rescinded. Amendment 14 remains in effect.

[FR Doc. 93-30837 Filed 13-16-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

New Mexico Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of proposed amendment.

SUMMARY: OSM is announcing its decision to approve, with certain exceptions and additional requirements, an amendment to the New Mexico permanent regulatory program (New Mexico program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of changes to New Mexico's existing regulations pertaining to the definition of "owned or controlled and owns or controls"; designation of lands unsuitable for coal mining; permit information requirements; protection of the hydrologic balance; reclamation plans for ponds, impoundments, banks, dams, and embankments; transportation facilities; subsidence control; support facilities; review of permit applications; criteria for permit approval or denial; improvidently issued permits; permit conditions; performance standards for roads used in coal exploration; permit requirements for coal exploration; coal processing waste dams and embankments; protection of threatened and endangered species; revegetation; roads; and cessation orders. The amendment also repeals the statutory language pertaining to the 2-acre exemption. The amendment revises the New Mexico program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: December 17, 1993.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Telephone (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program
II. Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.15, 931.16, and 931.30

II. Proposed Amendment

By letter dated January 16, 1991 (Administrative Record No. NM-623), New Mexico submitted a proposed amendment to its program pursuant to SMCRA. New Mexico submitted the proposed amendment in response to letters dated May 11 and November 1, 1989, and February 7 and June 22, 1990, that OSM sent to New Mexico in accordance with 30 CFR 732.17(d) (Administrative Record Nos. NM-494, NM-550, NM-563, and NM-596).

The rules that New Mexico proposed to revise were: Coal Surface Mining Commission (CSMC) Rule 80-1-1-5, definition of "owned or controlled and owns or controls"; CSMC Rules 80-1-7-13 and 7-14, permit information requirements; CSMC Rule 80-1-9-25, reclamation plans for ponds, impoundments, banks, dams, and embankments; CSMC Rule 80-1-9-37, transportation facilities; CSMC Rules 80-1-9-39, 20-121, and 20-124, subsidence control; CSMC Rule 80-1-9-40, support facilities; CSMC Rule 80-1-11-17, review of permit applications; CSMC Rule 80-1-11-19, criteria for permit approval or denial; CSMC Rules 80-1-11-20 and 11-24, improvidently issued permits; CSMC Rule 80-1-11-29, permit conditions; CSMC Rules 80-1-12-10 and 34-1 through 34-10, exemption for coal extraction incidental to the extraction of other minerals; CSMC Rule 80-1-19-15, performance standards for roads used in coal exploration; CSMC Rule 80-1-19-17, permit requirements for coal exploration; CSMC Rule 80-1-20-93, coal processing waste dams and embankments; CSMC Rules 80-1-20-116 and 20-117, revegetation; CSMC Rules 80-1-20-150 and 20-151, roads; and CSMC Rule 80-1-30-11, cessation orders.

OSM published a notice in the January 29, 1991, **Federal Register** (56 FR 3234) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. NM–626). The public comment period ended on February 28, 1991.

By letters dated February 6 and March 27, 1991, New Mexico submitted, on its own initiative, proposed revisions to CSMC Rule 80–1–20–97(b) and (c) pertaining to the protection of threatened and endangered species (Administrative Record Nos. NM–627 and NM–635) and requested that these proposed revisions be included as part of its January 16, 1991 proposed amendment.

During its review of the amendment, OSM identified concerns relating to CSMC Rule 80–1–9–25(c), reclamation plans for ponds impoundments, banks, dams, and embankments; CSMC Rule 80–1–9–37, transportation facilities; CSMC Rules 80–1–9–39 (b), and (c), 20–121(a), and 20–124, subsidence control; CSMC Rule 80–1–11–29(a), permit conditions; CSMC Rule 80–1–19–15(c)(4), performance standards for roads used in coal exploration; CSMC Rule 80–1–20–93(e), coal processing waste dams and embankments; CSMC Rules 80–1–20–97(b) and (c), protection of threatened and endangered species; CSMC Rules 80–1–20–116 and 20–117, revegetation; CSMC Rule 80–1–20–150(d)(1), roads; CSMC Rule 80–1–30–11(a), cessation orders; and CSMC Rule 80–1–34–6(a)(2), exemption for coal extraction incidental to the extraction of other minerals. OSM notified New Mexico of the concerns by letter dated April 15, 1991 (Administrative Record No. NM–636).

New Mexico responded in a letter dated July 22, 1991, by submitting a revised amendment (Administrative Record No. NM–645). The regulations that New Mexico proposed to further revise were: CSMC Rules 80–1–9–25(b) and (e), reclamation plans for coal processing waste dams and embankments; CSMC Rule 80–1–9–37, transportation facilities; CSMC Rules 80–1–9–39(b), (c), and (d), subsidence control; CSMC Rules 80–1–11–29(a) and (d), permit conditions; CSMC Rule 80–1–19–15(c), performance standards for roads used in coal exploration; CSMC Rules 80–1–20–97(b) and (c), protection of threatened and endangered species; CSMC Rules 80–1–20–116 and 20–117(c), revegetation; CSMC Rule 80–1–20–150 roads; CSMC Rule 80–1–30–11, cessation orders; and CSMC Rule 80–1–34–6, exemption for coal extraction incidental to the extraction of other minerals. In addition, New Mexico submitted for the first time a proposed revision to CSMC Rule 80–1–9–21(c), pertaining to protection of the hydrologic balance.

OSM published a notice in the August 9, 1991, **Federal Register** (56 FR 37870) announcing receipt of the revised amendment and inviting public comment on its adequacy (Administrative Record No. NM–648). The public comment period ended August 26, 1991.

During its review of the revised amendment, OSM identified concerns relating to CSMC Rules 80–1–9–25(c) and (e), reclamation plans for coal processing waste dams and embankments; CSMC Rules 80–1–9–39(b) and (c), subsidence control; CSMC Rule 80–1–11–29, permit conditions; CSMC Rules 80–1–20–116 and 20–117, revegetation; CSMC Rule 80–1–20–150(c), roads; and CSMC Rules 80–1–30–11(b) through (1), cessation orders. OSM notified New Mexico of the concerns by letter dated November 19, 1991 (Administrative Record No. NM–668).

New Mexico responded in a letter dated September 1, 1992, by submitting a revised amendment (Administrative Record No. NM–685). The regulations that New Mexico proposed to further revise were: CSMC Rule 80–1–1–5, definition of "owned or controlled and owns or controls"; CSMC Rules 80–1–7–13 and 7–14, permit information requirements; CSMC Rule 80–1–9–21(c), protection of the hydrologic balance; CSMC Rules 80–1–9–25(b), (c), and (e), reclamation plans for ponds, impoundments, banks, dams, and embankments; CSMC Rule 80–1–9–37, transportation facilities; CSMC Rules 80–1–9–39(b), (c), and (d), 20–121, and 20–124, subsidence control; CSMC Rule 80–1–9–40, support facilities; CSMC Rules 80–1–11–17(c), (d), and (e), review of permit applications; CSMC Rule 80–1–11–19(i), criteria for permit approval of denial; CSMC Rules 80–1–11–20 and 11–24, improvidently issued permits; CSMC Rule 80–1–11–29(d), permit conditions; CSMC Rule 80–1–19–15(c), performance standards for roads used in coal exploration; CSMC Rule 80–1–19–17, permit requirements for coal exploration; CSMC Rule 80–1–20–93, coal processing waste dams and embankments; CSMC Rules 80–1–20–97(b) and (c), protection of threatened and endangered species; CSMC Rules 80–1–20–116 and 20–117, revegetation; CSMC Rules 80–1–20–150 and 20–151(a), (b), and (c), roads; and CSMC Rules 80–1–30–11(b) through (l), cessation orders. In this revised amendment, New Mexico also (1) submitted for the first time proposed revisions to CSMC Rule 80–1–4–15(b), designation of lands unsuitable for coal mining, and CSMC Rule 80–1–20–91(c), coal processing waste dams and embankments; (2) advised OSM and the public of the deletion from the New Mexico Surface Mining Act, New Mexico Statutes Annotated (NMSA) 69–25A–31(B), concerning the 2-acre exemption, and (3) withdrew from further OSM consideration in this amendment CSMC Rules 80–1–12–10, 34–1, 34–2, 34–3, 34–4, 34–5, 34–6, 34–7, 34–8, 34–9, and 34–10, concerning the exemption for coal extraction incidental to the extraction of other minerals.

OSM published a notice in the October 28, 1992, **Federal Register** (57 FR 48764) announcing receipt of the revised amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. NM–697). The public comment period closed November 12, 1992.

III. Director's Findings

After a thorough review, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds, with certain exceptions and additional requirements, that the proposed amendment as submitted by New Mexico on January 16, 1991, and subsequently revised on February 6, March 27, and July 22, 1991, and September 1, 1992, is no less stringent than SMCRA and no less effective than the corresponding Federal regulations.

1. Substantive Revisions to New Mexico's Rules That Are Substantively Identical to the Corresponding Federal Regulations

New Mexico proposed revisions to the following regulations that are substantive in nature and contain language that is substantively identical to the corresponding Federal regulations (listed in parentheses): CSMC Rule 80–1–1–5 (30 CFR 773.5), definition of "owned or controlled and owns or controls"; CSMC Rules 80–1–7–13(a) through (i) and 7–14(a), (b), and (d) (30 CFR 778.13(a) through (i) and 778.14(a), (b), and (d)), permit information requirements; CSMC Rules 80–1–9–37(a), (b), and (d) (30 CFR 780.37(a)(1), (a)(4), and (a)(6), and 784.24(a)(4), and (a)(6)), transportation facilities; CSMC Rule 80–1–9–40 (30 CFR 780.38 and 784.30), support facilities; CSMC Rule 80–1–11–17(a) (30 CFR 773.15(e)), review of permit applications; CSMC Rules 80–1–11–20(a), (b)(1)(i), (b)(2), (c), (c)(1) through (c)(4), and 11–24 (30 CFR 773.20(a), (b)(1)(i), (b)(2), (c), (c)(1)

through (c)(4), and 773.21), improvidently issued permits; CSMC Rules 80–1–19–17(a) and (b) (30 CFR 772.14(a) and (b)), permit requirements for coal exploration; CSMC Rules 80–1–20–93(a) and (d) (30 CFR 816.84(b)(1) and (b)(2), and 817.84(b)(1) and (b)(2)), coal processing waste impounding structures; CSMC Rules 80–1–20–150(a)(2)(iii) and (g)(5) through (g)(7) (30 CFR 816.150(a)(2)(iii), (f)(3), (f)(5), (f)(6), and 817.150(a)(2)(iii), (f)(3), (f)(5), and (f)(6)), roads; CSMC Rules 80–1–20–151(a) and (c)(1) (30 CFR 816.151(a), (d)(1) and 817.151(a), (d)(1)), primary roads; CSMC Rules 80–1–30–11(b) and (l) and recodification of paragraph (c) through (k) (30 CFR 843.11(a)(2) and (g)), cessation orders.

Because these proposed New Mexico rules are substantively identical to the corresponding Federal regulations, the Director finds that they are no less effective than the corresponding Federal regulations and approves them.

2. CSMC Rule 80–1–4–15(b)(2), Notification Requirements for Designating Lands Unsuitable for Surface Coal Mining Operations

At 30 CFR 931.16(c), the Director previously required New Mexico to revise CSMC Rule 80–1–4–15(b)(1) to require publication in the New Mexico State Register of a public notice of the receipt of a petition to designate lands unsuitable for surface coal mining operations (56 FR 67520, December 31, 1991). New Mexico did not propose to revise CSMC Rule 80–1–4–15(b)(1) in this rulemaking.

The Federal regulations at 30 CFR 764.15(b)(1) require, in part, that the regulatory authority shall, by notice in any official State register of public notices, promptly notify the general public of the receipt of a petition to designate lands unsuitable for surface coal mining operations. Neither New Mexico's existing rules nor its proposed rule at CSMC Rule 80–1–4–15(b)(2) require publication of a notice in the New Mexico State Register upon initial receipt of a petition to designate lands unsuitable for surface coal mining operations. Therefore, the required amendment at 30 CFR 931.16(c) has not been satisfied and remains outstanding.

New Mexico proposed to revise CSMC Rule 80–1–4–15(b)(2) to require New Mexico to notify the general public of the receipt of a complete petition to designate lands unsuitable for mining by the publication of a notice in the New Mexico State Register. The corresponding Federal regulation at 30 CFR 764.15(b)(2) also requires, in part, that after the determination that a petition is complete the regulatory authority shall, by notice in any official State register of public notices, request submissions from the general public of relevant information pertaining to such a petition. The Director finds that New Mexico's proposed revision to CSMC Rule 80–1–4–15(b)(2) is no less effective than the Federal requirements at 30 CFR 764.15(b)(2) and approves it.

3. CSMC Rule 80–1–7–13(j), Identification of Interests in Permit Applications

New Mexico proposed at CSMC Rule 80–1–7–13(j) that an applicant for a mining permit submit the identification of interests and compliance information required by CSMC Rules 80–1–7–13 and 80–1–7–14 in any format prescribed by the Director that is approved by OSM. The corresponding Federal regulation at 30 CFR 778.13(j) requires the applicant to submit the information required by 30 CFR 778.13 and 778.14 in "any prescribed OSM format that is issued."

The preamble to the Federal regulation states that the purpose for requiring a "prescribed OSM format" is to increase efficiency of data entry and processing in the applicant/violator system (AVS), and that use of an issued standard form "will be required regardless of whether the permit application is filed with OSM or a State regulatory authority" (54 FR 8982, 8985, March 2, 1989). OSM has not yet issued a standard format for submittal of AVS information. Because New Mexico's proposed rule does not preclude New Mexico from using OSM's format when it is issued, the Director finds that proposed CSMC Rule 80–1–7–13(j) is no less effective than the Federal regulation at 30 CFR 778.13(j). The Director approves New Mexico's proposed rule with the understanding that New Mexico will adopt the OSM-prescribed format once it is issued.

4. CSMC Rule 80–1–7–14(c), Compliance Information in Permit Applications

New Mexico proposed at CSMC Rule 80–1–7–14(c) that an application for a permit include a list of (1) all violation notices received by the applicant during the 3-year period preceding the application date and (2) all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining operation owned or controlled by the applicant or anyone who owns or controls the applicant. Such a list must include any violation of (1) a provision of the Act, or (2) any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation. Proposed CSMC Rule 80–1–7–14(c) follows almost verbatim the corresponding Federal regulation at 30 CFR 778.14(c), but as discussed below, its requirements with respect to the use of the term "Act" differ substantively from the Federal requirements (see also finding No. 9(b)).

New Mexico proposed at CSMC Rule 80–1–7–14(c) to require the information described above "[f]or any violation of a provision of the Act." New Mexico defines "Act" at CSMC Rule 80–1–1–5 to mean "the State of New Mexico Surface Mining Act (sections 69–25A–1 *et seq.* NMSA 1978)" (NMSMA). New Mexico's definition does not indicate that the term "Act" includes the provisions of other laws and regulations enacted or promulgated pursuant to NMSMA or to SMCRA. In contrast, the preamble to 30 CFR 778.14(c) (48 FR 44344, 44389, September 28, 1983) explains that the reference to the "Act" in section 510(c)(of SMCRA, on which the Federal regulation is based, includes in addition to SMCRA, SMCRA's implementing regulations and all State and Federal programs approved under SMCRA (53 FR 38868, 38882–38883, October 3, 1988). Thus, 30 CFR 778.14(c) requires information regarding violations received pursuant to SMCRA, its implementing regulations, all Federal programs approved under SMCRA including OSM-administered Indian lands programs, and all State programs approved under SMCRA, not just the New Mexico program.

Because New Mexico's proposed CSMC Rule 80–1–7–14(c) does not require an application to include information on all violations received pursuant to SMCRA, its implementing regulations, and any State or Federal law, rule, or regulation enacted or promulgated pursuant to SMCRA, the Director finds that proposed CSMC Rule 80–1–7–14(c) is less effective than the Federal regulations at 30 CFR 778.14(c). The Director approves proposed CSMC Rule 80–1–7–14(c) but requires that New Mexico further revise CSMC Rule 80–1–7–14(c) so that it requires an application to include, in addition to information on violations received pursuant to NMSMA, information on all violations received pursuant to SMCRA, its implementing regulations, and any State or Federal law, rule, or regulation enacted or promulgated pursuant to SMCRA.

5. CSMC Rule 80–1–9–21(c), Protection of the Hydrologic Balance

New Mexico proposed to revise CSMC Rule 80–1–9–21(c), which requires a probable hydrologic consequences (PHC) determination for the "cumulative impact area," by adding the requirement that the PHC determination address all proposed mining activities associated with the permit area for which a permit is sought, not just those expected to occur during the term of the permit. The "cumulative impact area," as defined at CSMC Rule 80–1–1–5, includes at a minimum, the proposed permit area and such adjacent area as may be impacted by mining activities occurring on the permit area.

The Federal regulations requiring the PHC determination at 30 CFR 780.21(f) and 784.14(e) were challenged in *In Re: Permanent Surface Mining Regulation Litigation*, 21 Env't Rep. Cas. 1724, 15 ELR 20481 (D.D.C. 1984) (PSMRL II, Round II); and, *In Re: Permanent Surface Mining Regulation Litigation*, 620 F. Supp. 1519 (D.D.C. 1985) (PSMRL II, Round III), on the grounds that they were improperly limited to activities occurring during the "life of the permit" as opposed to the "life of the mine." Rather than ruling on the substance of this argument, the court instead remanded the rules on procedural grounds. As a result of the court decision, OSM suspended the PHC regulations (51 FR 41952, 41957, November 20, 1986).

OSM reexamined the regulations and on September 19, 1988, promulgated regulations at 30 CFR 780.21(f) and 784.14(e) identical to those that had been previously suspended (53 FR 36394, 36400). However, in the preamble to the new regulations, OSM clarified how its interpretation to limit the PHC determination to the permit and adjacent areas was appropriate. OSM interprets section 504(b)(11) of SMCRA to limit the extent of the required PHC determination to all activities authorized by the permit that would impact the permit and adjacent areas. The PHC determination need not consider those activities that may occur during the life of the mine that would be authorized under future permitting activities. A new PHC determination would be required for any additional surface mining activity that could impact the hydrologic regime authorized during the initial permit term or in future permitting actions. A renewal of the initial permit with no changes would not necessitate a new PHC determination. Therefore, OSM considers the PHC determination to be "spatial" rather than "temporal" in nature (53 FR 36394, 36396–36399, September 19, 1988). A temporal PHC determination would apply to all known mining activities associated with the initial permit area and those that may occur during the life of the mine.

Because the PHC determination proposed by New Mexico must evaluate all activities proposed in the permit application impacting the proposed permit and adjacent areas, it is spatial in nature. Therefore, the Director finds that proposed CSMC Rule 80–1–9–21(c) is no less effective than the Federal regulations at 30 CFR 780.21(f) and 784.14(e) as interpreted by OSM (53 FR 36394, 36396–36399, September 19, 1988) and approves it.

6. CSMC Rules 80–1–9–25(b), (c), and (e), Design Plans for Sedimentation Ponds, Impoundments, and Coal Processing Waste Dams and Embankments

New Mexico proposed to revise CSMC Rules 80–1–9–25(b), (c), and (e) to require that plans for sedimentation ponds, permanent and temporary impoundments, and coal processing waste dams and embankments that are prepared to comply with the requirements of the Mine Safety and Health Administration (MSHA) at 30 CFR 77.216–1 and 77.216–2, also be submitted to the Director of MMD as part of the permit application. New Mexico also proposed to further revise CSMC Rule 80–1–9–25(c) to require that a copy of the plans developed in accordance with 30 CFR 77.216 be submitted to the Director of MSHA.

The Federal regulations at 30 CFR 780.25(b) and (e) and 784.16(b) and (e) require, among other things, that plans for sedimentation ponds and coal processing waste dams and embankments comply with the requirements of MSHA at 30 CFR 77.216–1 and 77.216–2. The Federal regulations at 30 CFR 780.25(c) and 784.16(c) require, among other things, that plans for permanent and temporary impoundments required to be submitted to the District Manager of MSHA under 30 CFR 77.216 shall also be submitted to the regulatory authority as part of the permit application.

New Mexico's proposed CSMC Rule 80–1–9–25(c) requires that the plans developed in accordance with 30 CFR 77.216 be submitted to the Director of MSHA, whereas the corresponding Federal regulations at 30 CFR 780.25(c) and 784.16(c) require that these plans be submitted to the District Manager of MSHA. Also, proposed CSMC 80–1–9–25(c) could be construed to be inconsistent with other provisions in CSMC 80–1–9–25 that, through their general requirements to comply with 30 CFR 77.216, require such plans to be submitted to the District Manager. Although New Mexico's proposed rule is no less effective than the Federal regulations to the extent that any such plans submitted to the Director of MSHA would be forwarded to the appropriate District Manager of MSHA, the proposed rule could nevertheless cause confusion to operators trying to comply with New Mexico's rules and could potentially cause delays in the District Manager receiving the plans. For these reasons, the Director recommends that in a future rulemaking New Mexico revise CSMC 80–1–9–25(c) to require operators to submit the plans to the district Manager of MSHA, not the Director of MSHA.

Insofar as New Mexico requires that plans for sedimentation ponds, impoundments, and coal processing waste dams and embankments comply with 30 CFR 77.216–1 and 77.216–2 and that these plans be sent to the Director of MMD, the Director finds that proposed CSMC Rules 80–1–9–25(b), (c), and (e) are no less effective than the corresponding Federal regulations at 30 CFR 780.25(b), (c), and (e), and 784.16(b), (c), (e), and approves them.

7. CSMC Rule 80–1–9–37, Transportation Facilities

(a) CSMC Rule 80–1–9–37(c)

New Mexico proposed at CSMC Rule 80–1–9–37(c) to require an application to include drawings and specifications for any road, including each ford and low-water crossing, proposed to be located in channels of perennial or intermittent streams. The corresponding Federal regulations at 30 CFR 780.37(a)(2), (a)(3), and (a)(5) and 784.24(a)(2), (a)(3), and (a)(5) require an application to contain drawings and specifications of (1) each ancillary or primary road or road segment that is proposed to be located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the regulatory authority, (2) each ford of an intermittent or perennial stream by a primary road or road segment that is proposed as a temporary route during road construction, and (3) each low-water crossing of an intermittent or perennial stream by a primary road or road segment.

Although proposed CSMC Rule 80–1–9–37(c) is less detailed than are the corresponding Federal regulations, it requires drawings and specifications for all roads proposed to be located in channels of perennial or intermittent streams including fords and low-water

crossings of those streams. Thus, the requirements of New Mexico's proposed CSMC Rule 80–1–9–37(c) closely follow the requirements of the corresponding Federal regulations. However, as discussed below, because of differences in the Federal and New Mexico definitions of "intermittent stream," New Mexico's proposed rule differs substantively from the corresponding Federal regulations with respect to applicability of the rule's requirements.

New Mexico defines "intermittent stream" at CSMC Rule 80–1–1–5 as a stream or reach of stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground-water discharge. The Federal regulations at 30 CFR 701.5 define "intermittent stream" as (1) a stream or reach of a stream that drains a watershed of at least 1 square mile or (2) a stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface and ground-water discharges.

New Mexico's definition of "intermittent stream" differs from the Federal definition in that it does not include as intermittent those streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or from melting snow or ice within the immediate watershed. This class of streams falls within New Mexico's definition of "ephemeral stream" at CSMC Rule 80–1–1–5. The effect of New Mexico's "intermittent stream" definition, when considered in conjunction with proposed CSMC Rule 80–1–9–37(c), is that, contrary to the Federal requirements at 30 CFR 780.37(a)(2), (a)(3), and (a)(5) and 784.24(a)(2), (a)(3), and (a)(5), a permit application would not have to include drawings and specifications for roads or road segments located in or crossing such streams.

Therefore, because proposed CSMC Rule 80–1–9–37(c) does not afford the same protection to streams that drain watersheds 1 square mile or greater and that flow only in direct response to surface runoff from precipitation or melting snow or ice as is provided by the Federal regulations at 30 CFR 780.37(a)(2), (a)(3), and (a)(5) and 784.24(a)(2), (a)(3), and (a)(5) for such streams, the Director finds that proposed CSMC Rule 80–1–9–37(c) is less effective than the corresponding Federal regulations. The Director approves it but requires New Mexico to revise CSMC Rule 80–1–9–37(c) or otherwise modify its program to extend protection no less effective than the Federal standards to streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

(b) CSMC Rule 80–1–9–37(e)

New Mexico proposed at CSMC Rule 80–1–9–37(e) to require that plans and drawings for each primary road be prepared and certified by a registered professional engineer, or a qualified, registered professional land surveyor, experienced in the design and construction of roads. The corresponding Federal regulations at 30 CFR 780.37(b) and 784.24(b) require that "plans and drawings for each primary road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, or * * * a qualified registered professional land surveyor, with experience in the design and construction of roads." Proposed CSMC Rule 80–1–9–37(e) does not require preparation and certification by a qualified registered professional engineer as do the Federal regulations.

On March 17, 1989, the Director of OSM approved CSMC Rule 80–1–20–71(b) concerning the disposal of excess spoil (51 FR 11183, 11184). That rule requires that all coal processing waste banks be certified by a "qualified registered professional engineer." It does not include the phrase "experienced in the design of similar earth and waste structures" as do the corresponding Federal regulations at 30 CFR 816.81(c)(1) and 817.81(c)(1). In approving CSMC Rule 80–1–20–71(b), the Director cited New Mexico's Engineering and Land Surveying Practice Act, Section (O) (Rules of Professional Conduct), Subsection 2 (Specialization and the Performance of Services Only in Specific Areas of Competence) (Administrative Record No. NM–419) that requires that (1) professional engineers and professional land surveyors undertake assignments only when qualified by education, experience, or examination in the specific technical fields of engineering or land surveying involved and (2) registrants not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or documents not prepared under their general direction or control. Thus, a person holding a current license or certificate issued by the New Mexico State Board of Registration for Professional Engineers and Land Surveyors is prohibited from undertaking assignments or affixing his/her signature or seal to documents dealing with specific technical areas of engineering for which he/she lacks competence, i.e. does not have adequate education, examination, and experience in that specific area of engineering.

On that basis, the Director found that the proposed phrase "qualified, registered professional engineer" in conjunction with the New Mexico Engineering and Land Surveying Practice Act was no less effective than the corresponding phrase "a qualified registered professional engineer, experienced in the design of similar earth and waste structures" from the Federal regulations at 30 CFR 816.81(c)(1) and 817.81(c)(1). In effect, the Director agreed that New Mexico's procedures for administrating and enforcing its Engineering and Land Surveying Practice Act provide sufficient assurance that a person holding a current license or certificate issued by the New Mexico State Board of Registration for Professional Engineers and Land Surveyors has experience and education in the specific technical engineering fields in question, and therefore is "qualified" to design and certify in those fields.

The situation is similar for the proposed rule that is the subject of this finding. Proposed CSMC Rule 80–1–9–37(e) requires that plans and drawings for each primary road be prepared and certified by a registered professional engineer, or a qualified, registered professional land surveyor, experienced in the design and construction of roads. By the reasoning described above, which was used in approving CSMC Rule 80–1–20–71(b), the Director finds that proposed CSMC Rule 80–1–9–37(e), as implemented in conjunction with the New Mexico Engineering and Land Surveying Practice Act, is no less effective than the Federal requirements at 30 CFR 780.37(b) and 784.24(b). Therefore, the Director approves the proposed rule.

8. CSMC Rules 80–1–9–39(b), (c), and (d), Permit Application Requirements for Subsidence Information and Control Plan

(a) CSMC Rule 80–1–9–39(b), Prevention of Material Damage

New Mexico proposed to revise CSMC Rule 80–1–9–39(b) to require that a permit application for an underground mine include, among other things, a description of the means, if any, by which the operator will prevent material damage to structures, facilities, and renewable resources, maximize mine stability, and maintain the value in the reasonably foreseeable use of the affected land surface and renewable resource lands. By inclusion of the phrase "if any," the applicant would not

always be required to include in the application a description of the means by which the operator will prevent material damage to structures, facilities, and renewable resource lands, maximize mine stability, and maintain the value in the reasonably foreseeable use of the affected surface land and renewable resource lands.

The Federal regulation at 30 FR 784.20 (introductory paragraph) requires a permit application for an underground mine to include a survey that indicates whether structures or renewable resource lands exist within the permit area and adjacent areas, and whether subsidence, if it occurred, could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands. If the survey shows, and the regulatory authority agrees, that no structures or renewable resource lands exist or that no material damage or diminution could be caused in the event of subsidence, then a subsidence control plan with a description of the subsidence control measures to be taken to prevent or minimize subsidence and subsidence-related damage is not required.

However, when a subsidence control plan has been determined necessary pursuant to 30 CFR 784.20 (introductory paragraph), the Federal regulation at 30 CFR 784.20(e), which corresponds to CSMC Rule 80–1–9–39(b), requires the subsidence control plan to include a detailed description of the technologically and economically feasible subsidence control measures that will be taken to prevent or minimize subsidence and subsidence-related damage, except for those areas where planned subsidence is projected to be used.

Thus, if a subsidence control plan is required at all, a description of subsidence control measures must be included in the plan unless planned subsidence is used.

Similarly, New Mexico's CSMC Rule 80–1–9–39 requires certain specified information to be in all applications, including a description of structures and renewable resource lands that may be affected by subsidence of underground workings, and a statement indicating whether subsidence may occur and whether the subsidence will result in material damage to the land surface, structures or renewable resource lands. It follows that, if this required information indicates that no structures or renewable resource lands exist within the permit and adjacent areas or that no material damage could be caused in the event of subsidence, then a description of the means by which the operator would prevent or minimize subsidence and subsidence-related damage would not be necessary.

Therefore, to the extent that New Mexico's use of the phrase "if any" at proposed CSMC Rule 80–1–9–39(b) simply means that the applicant does not have to provide a description of the means by which he or she would prevent or minimize subsidence and subsidence-related damage because no structures or renewable resource lands exist within the permit and adjacent areas or no material damage could be caused in the event of subsidence, New Mexico's proposed rule is consistent with the Federal regulations at 30 CFR 784.20. On this basis, the Director finds that proposed CSMC Rule 80–1–9–39(b) is no less effective than the corresponding Federal regulation at 30 CFR 784.20(e) and approves it.

(b) CSMC Rule 80–1–9–39(c), Mitigation or Remedy of Material Damage

New Mexico's proposed new paragraph at CSMC Rule 80–1–9–39(c) states that an application must include "a description of the measures to be taken in accordance with CSMC Rule 80–1–20–121 and 124 to mitigate or remedy any subsidence-related damage to, or diminution in value or reasonably foreseeable use of the land, structures or facilities to the extent required under State law."

Because of the way that New Mexico has structured the sentence containing the proposed requirements, it is not clear what New Mexico intended. OSM interprets the proposed rule to require that an application shall include a description of the measures to be taken in accordance with CSMC Rules 80–1–20–121 and 124 to mitigate or remedy any subsidence-related damage to, or diminution in value or reasonably foreseeable use of (1) structures or facilities to the extent required by State law and (2) the land to the extent required by State law.

The corresponding Federal regulation at 30 CFR 784.20(g) requires a description of the measures that are technologically and economically feasible to be taken in accordance with 30 CFR 817.121 to mitigate or remedy subsidence-related damage to (1) structures or facilities to the extent required under State law or (2) the land. The Federal regulations at 30 CFR 817.121(c)(1) and (c)(2) require that an operator (1) correct any subsidence-related material damage to surface lands by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence, and (2) to the extent required by State law, either repair the damage or compensate the owner for material damage to structures or facilities caused by subsidence. In addition, section 720 of SMCRA, as added by section 2504 of the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776, 3104) requires an operator to promptly repair damage or compensate the owner for any subsidence-related material damage to occupied residential dwellings, structures related thereto, or noncommercial buildings that was caused by an underground mining operation conducted after October 24, 1992.

Thus, under section 720 of SMCRA, measures to mitigate or remedy subsidence-related material damage to structures or facilities can be limited by State law only when such damage is the result of underground mining operations conducted on or before October 24, 1992. State law cannot serve to limit an operator's liability to mitigate or remedy (1) any subsidence-related damage to the land or (2) subsidence-related damage incurred after October 24, 1992, to occupied residential dwellings, structures related thereto, or to noncommercial buildings.

In contrast to the Federal requirements, New Mexico's proposed CSMC Rule 80–1–9–39(c) (1) allows an operator to limit to the extent required under State law the required description of measures to mitigate or remedy subsidence-related material damage to the land and (2) does not require a description of measures to be taken to mitigate or remedy subsidence-related damage incurred after October 24, 1992, to occupied residential dwellings, structures related thereto, or noncommercial buildings. In addition, proposed CSMC Rule 80–1–9–39(c) is inconsistent with proposed CSMC Rule 80–1–20–124, which does not impose the applicable State law limitation on an operator's obligation to correct subsidence-related material damage.

For the reasons discussed above, the Director finds that proposed CSMC Rule 80–1–9–39(c) is less effective than the Federal regulation at 30 CFR 784.20(g) and less stringent than section 720 of SMCRA. The Director does not approve proposed CSMC Rule 80–1–9–39(c) and requires New Mexico to revise it to require a permit application to include a description of measures that an operator would use to mitigate or remedy subsidence-related material damage to (1) the land and (2) occupied residential dwellings, structures related thereto, and noncommercial buildings where the damage resulted from underground mining operations conducted after October 24, 1992.

(c) CSMC Rule 80–1–9–39(d)(2), Measures to Prevent Subsidence-Related Damage

New Mexico's existing existing CSMC Rule 80–1–9–39(c) was recodified as CSMC Rule 80–1–9–39(d) in the proposed amendment. Recodified CSMC Rule 80–1–9–39(d) states that the Director may require the applicant, as a permit condition, to adopt measures to prevent subsidence from causing material damage to the extent technologically and economically feasible, subject to certain provisions. New Mexico proposed to revise one of those provisions at CSMC Rule 80–1–9–39(d)(2) to clarify that no such measures shall be required if the damage anticipated, not only to the land surface or renewable resource lands but also to structures and facilities, even if material, can be and is required to be reclaimed by the applicant on the land surface following subsidence.

There is no direct Federal counterpart to proposed CSMC Rule 80–1–9–39(d)(2). The Federal regulation at 30 CFR 817.121(a) requires an operator to either adopt measures consistent with known technology that prevent subsidence from causing damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands, or adopt mining technology that provides for planned subsidence in a predictable and controlled manner. The Federal regulation at 30 CFR 817.121(a) also states that nothing in the rule shall be construed to prohibit the standard method of room-and-pillar mining. New Mexico's program contains a substantively identical requirement at CSMC Rule 80–1–20–121(a). Just as 30 CFR 817.121(a) is not discretionary with the Director of OSM, CSMC Rule 80–1–20–121(a) is not discretionary with the State program Director.

The Director finds that because New Mexico's proposed CSMC Rule 80–1–9–39(d)(2) would allow material damage to occur without applying technologically and economically feasible measures to prevent or minimize such damage, it is less effective than the Federal regulation at 30 CFR 817.121(a) and inconsistent with proposed CSMC Rule 80–1–20–121(a). Therefore, the Director does not approve New Mexico's proposed revision of CSMC Rule 80–1–9–39(d)(2) and requires New Mexico to revise CSMC Rule 80–1–9–39(d) to remove in its entirety the exception allowed at paragraph (d)(2).

9. CSMC Rules 80–1–11–17 and 80–1–11–19, Criteria for Permit Approval or Denial

(a) CSMC Rule 80–1–11–17(c), Failure to Abate Cessation Orders

New Mexico proposed at CSMC Rule 80–1–11–17(c) that, in the absence of a failure-to-abate cessation order, the Director may presume that a notice of violation has been or is being corrected. This portion of the proposed rule is substantively identical to the corresponding portion of the Federal regulation at 30 CFR 773.15(b)(1). However, the Secretary of the Interior, in *National Wildlife Federation* v. *Lujan*, Civ. Nos. 88–3117, *et seq.* (Consolidated, D.D.C. filed October 27, 1988) (Memorandum of Points and Authorities In Support of the Federal Defendants' Cross-Motion For Summary Judgment and In Opposition to Plaintiffs' Motions For Summary Judgment, pp. 89–90), has expressed his intention to reconsider the issue of whether, in the absence of a failure-to-abate cessation order, the regulatory authority may presume that a notice of violation has been or is being corrected, as set forth in the Federal regulation.

Therefore, pending final resolution of the reconsideration currently being pursued by the Secretary regarding the Federal regulation at 30 CFR 773.15(b)(1), the Director defers action on that portion of proposed CSMC Rule 80–1–11–17(c) that addresses the presumption discussed above.

(b) CSMC Rule 80–1–11–17(c), Any Violation of the Act by Controlling Interests

New Mexico also proposed at CSMC Rule 80–1–11–17(c) that the Director of MMD shall not issue a permit if any surface mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation pertaining to air or water environmental protection, or of any provision of the Act. In addition, proposed CSMC Rule 80–1–11–17(c) provides that, to determine whether the applicant is in violation of one of the above laws, rules, or regulations, the Director of MMD will consider all available violation information, including violation information concerning Federal and State failure-to-abate cessation orders, unabated Federal and State imminent harm cessation orders, delinquent civil penalties issued under the SMCRA or any approved State program, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

Proposed CSMC Rule 80–1–11–17(c) requires the Director of MMD, in determining whether to issue a permit, to consider information on "delinquent civil penalties issued under the Surface Mining Control and Reclamation Act or any approved state program." The corresponding Federal regulation at 30 CFR 773.15(b)(1) requires the regulatory authority, in determining whether to issue a permit, to consider information on "delinquent civil penalties issued pursuant to section 518 of the Act" (SMCRA). OSM interprets the phrase "delinquent civil penalties issued pursuant to section 518 of the Act" to include penalties issued under SMCRA, its implementing regulations, and all State and Federal programs enacted or promulgated pursuant to SMCRA (53 FR 38868, 38881, October 3, 1988).

Because New Mexico does not define the term "Surface Mining Control and Reclamation Act" it is not clear whether the proposed phrase "delinquent civil penalties issued under the Surface Mining Control and Reclamation Act or any approved state program" would require consideration of delinquent civil penalties issued pursuant to derivative Federal programs encompassed by the Federal phrase "section 518 of the Act." Although proposed CSMC Rule 80–1–11–17(c), by inclusion of the phrase, "or any approved state program," requires consideration of delinquent civil penalties issued pursuant to all OSM-approved State programs, the proposed rule does not appear to require consideration of delinquent civil penalties issued pursuant to (1) the Federal regulations at 30 CFR chapter VII, (2) the Indian Lands program, or (3) any of the Federal programs for States.

With respect to the other proposed requirements of CSMC Rule 80–1–11–17(c), it, like the Federal regulation at 30 CFR 773.15(b)(1), prohibits issuance of a permit if the applicant or any person who owns or controls the applicant is currently in violation of certain laws, rules, or regulations. However, proposed CSMC Rule 80–1–11–17(c) and the Federal regulation differ in the specification of those laws, rules, and regulations. The Federal regulation at 30 CFR 773.15(b)(1) prohibits permit issuance if a controlling entity is currently "in violation of the Act or any other law, rule or regulation referred to in this paragraph." Proposed CSMC

Rule 80–1–11–17(c) prohibits permit issuance if a controlling entity is currently in violation of "any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation pertaining to air or water environmental protection, or of any provision of the Act." New Mexico's proposed list of laws, rules, and regulations is less inclusive than the phrase "the Act or any other law, rule or regulation referred to in this paragraph" contained in 30 CFR 773.15(b)(1). While both the Federal regulation at 30 CFR 773.15(b)(1) and proposed CSMC Rule 80–1–11–17(c) prohibit permit issuance if a controlling entity is currently in violation of the "Act," their requirements with respect to use of the term "Act" differ substantially. As discussed in finding No. 4, the reference to the "Act" in section 510(c) of SMCRA includes SMCRA, SMCRA's implementing regulations, and all State and Federal programs approved under SMCRA (53 FR 38868, 38882–38883, October 3, 1988). In contrast, New Mexico's definition of "Act" includes only NMSMA. The term does not include the provisions of SMCRA, SMCRA's implementing regulations, or any State or Federal law, rule, or regulation enacted or promulgated pursuant to SMCRA. Therefore, New Mexico's proposed phrase "any provision of the Act" does not prohibit, as the Federal regulation at 30 CFR 773.15(b)(1) does, issuance of a permit when a controlling interest is currently in violation of the provisions of (1) SMCRA, (2) the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, (4) Federal programs for States, or (5) OSM-approved State programs other than the New Mexico program.

Based on the discussions above, the Director finds that proposed CSMC Rule 80–1–11–17(c) is less effective than the corresponding Federal regulation at 30 CFR 773.15(b)(1) because (1) it is not clear that New Mexico's proposed phrase "delinquent civil penalties issued under the Surface Mining Control and Reclamation Act or any approved state program" would require, as a basis for permit denial, consideration of violation information concerning delinquent civil penalties issued pursuant to all of the derivative State and Federal programs encompassed by the Federal phrase "section 518 of the Act," and (2) New Mexico's proposed phrase "any provision of the Act" does not prohibit issuance of a permit when an applicant or any person who owns or controls the applicant is currently in violation of SMCRA, the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved programs other than the New Mexico program.

Therefore, with the exception of the portion of proposed CSMC Rule 80–1–11–17(c) that addressed the presumption that a notice of violation has been corrected (finding No. 9(a)), the Director approves proposed CSMC Rule 80–1–11–17(c) but requires that New Mexico further revise CSMC Rule 80–1–11–17(c) or otherwise revise its program to (1) require, as a basis of permit denial, consideration of violation information concerning delinquent civil penalties issued pursuant to derivative State and Federal programs encompassed by the Federal phrase "section 518 of the Act," and (2) prohibit the Director of MMD from issuing a permit if an applicant or any person who owns or controls an applicant is currently in violation of SMCRA, the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved programs other than the New Mexico program.

(c) CSMC Rule 80–1–11–17(d) and 19(i), Demonstrated Pattern of Willful Violations of the Act

New Mexico proposed at CSMC Rule 80–1–11–17(d) that an applicant or operator must be afforded an opportunity for an adjudicatory hearing before the Director of MMD makes a final determination that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled a surface coal mining and reclamation operation with a demonstrated pattern of willful violations of the Act. New Mexico also proposed at CSMC Rule 80–1–11–19(i) that a permit or permit revision cannot be approved unless the Director of MMD finds in writing that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, does not control or has not controlled a surface coal mining and reclamation operation with a demonstrated pattern of willful violations of the Act.

The Federal regulation at 30 CFR 773.15(b)(3) requires that if the regulatory authority finds that an owning or controlling entity of a proposed surface coal mining and reclamation operation controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the SMCRA, then (1) no permit shall be issued, and (2) before such a finding becomes final, the applicant or operator must be afforded an opportunity for an adjudicatory hearing on the determination.

Consistent with the Federal regulations at 30 CFR 773.15(b)(3), proposed CSMC Rule 80–1–11–17(d), in conjunction with proposed CSMC Rule 80–1–11–19(i), (1) provides the applicant an opportunity for an adjudicatory hearing if the Director of MMD determines that a demonstrated pattern of willful violations exists and (2) prohibits approval of a permit unless the Director of MMD finds in writing that no demonstrated pattern of willful violations of the Act exists.

However, both proposed CSMC Rules 80–1–11–17(d) and 19(i) have the same deficiency with respect to the use of the term "Act" as do proposed CSMC Rules 80–1–7–14(c) and 11–17(c) discussed, respectively, in finding Nos. 4 and 9(b) above. Thus, when the Director of MMD makes a determination of whether a demonstrated pattern of willful violations of the Act exists, New Mexico's proposed rules require the Director of MMD to consider only those violations received pursuant to NMSMA.

Therefore, because proposed CSMC Rules 80–1–11–17(d) and 19(i) only require the Director of MMD to consider violations received pursuant to NMSMA by the applicant, anyone who owns or controls the applicant, or the operator named in the application, the Director finds that New Mexico's proposed CSMC Rules 80–1–11–17(d) and 19(i) are less effective than the corresponding regulation at 30 CFR 773.15(b)(3). The Director approves proposed CSMC Rules 80–1–11–17(d) and 11–19(i) but requires that New Mexico further revise them to require that the Director of MMD, when making a determination of whether a demonstrated pattern of willful violations exists, also consider violations received by the applicant, anyone who owns or controls the applicant, or the operator named in the application pursuant to SMCRA, the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved programs other than the New Mexico program.

10. CSMC Rule 80–1–11–20(b), Improvidently Issued Permits

New Mexico proposed at CSMC Rule 80–1–11–20(b) criteria for determining whether a surface coal mining and reclamation permit was improvidently issued.

(a) CSMC Rules 80–1–11–20(b)(1) and (b)(3)

New Mexico proposed at CSMC Rule 80–1–11–20(b)(1) and (b)(3), respectively, that the Director of MMD find that a permit was improvidently issued if (1) according to CSMC Rule 80–1–7–14 at the time the permit was issued, either of the two conditions specified at paragraphs (b)(1)(i) and (ii) are met, and (2) the permittee was linked to the person responsible for a violation, penalty, or fee through ownership or control, according to CSMC Rule 80–1–7–14 at the time the permit was issued, and such link still exists, or where such a link was severed, the permittee continues to be responsible for the violation, penalty or fee.

The corresponding Federal regulations at 30 CFR 773.20(b)(1) and (b)(3) refer to "the violations review criteria of the regulatory program" by which a regulatory authority must determine whether a permit was improvidently issued. In the April 28, 1989, **Federal Register** (54 FR 18438, 18440–18441), OSM discusses what these criteria must include. Except for the reference to CSMC Rule 80–1–7–14, proposed CSMC Rules 80–1–11–20(b)(1) and (b)(3) are substantively identical to the corresponding Federal regulations at 30 CFR 773.20(b)(1) and (b)(3).

Referenced CSMC Rule 80–1–7–14 lists specific compliance information that must be submitted with a permit application, but it does not include the violation review criteria. The violations review criteria under the New Mexico program are identified at proposed CSMC Rule 80–1–11–20(b)(1)(iii) as the applicable violations review criteria included in the preamble of the **Federal Register** at 54 FR 18438, 18440–18441 (April 28, 1989). Because New Mexico incorrectly references CSMC Rule 80–1–7–14 instead of CSMC Rule 80–1–11–20(b)(1)(iii), proposed CSMC Rules 80–1–11–20(b)(1) and (b)(3) are less effective than the Federal regulations at 30 CFR 773.20(b)(1) and (b)(3).

The Director does not approve CSMC Rules 80–1–11–20(b)(1) and (b)(3) to the extent that they reference CSMC Rule 80–1–7–14 and do not incorporate the violations review criteria at CSMC Rule 80–1–11–20(b)(1)(iii). The Director requires that New Mexico revise CSMC Rules 80–1–11–20(b)(1) and (b)(3) to reference CSMC Rule 80–1–11–20(b)(1)(iii) instead of CSMC Rule 80–1–7–14.

(b) CSMC Rules 80–1–11–20(b)(1)(ii)

New Mexico proposed at CSMC Rule 80–1–11–20(b)(1)(ii) that the Director of MMD shall find that a permit was improvidently issued if the permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order was subsequently issued. This proposed language is substantively identical to the corresponding Federal regulation at 30 CFR 773.20(b)(1)(ii).

However, because proposed CSMC Rule 80–1–11–20(b)(1)(ii) relates to the same presumption issue discussed in finding No. 9(a) above, and the Secretary has indicated his intention to reconsider the corresponding Federal regulation at 30 CFR 773.20(b)(1)(ii) in addition to 30 CFR 773.15(b)(1)(i), the Director defers action on proposed CSMC Rule 80–1–11–20(b)(1)(ii).

(c) CSMC Rule 80–1–11–20(b)(1)(iii), Violations Review Criteria

New Mexico proposed at CSMC Rule 80–1–11–20(b)(1)(iii) that the Director of MMD shall use the applicable violations review criteria listed in the **Federal Register** at 54 FR 18438, 18440–18441 (April 28, 1989) for determining what specific unabated violations, delinquent penalties and fees, and ownership and control relationships must be considered in determining whether a permit was improvidently issued.

The corresponding Federal regulation at 30 CFR 773.20(b)(1) requires the regulatory authority to use "the violations review criteria of the regulatory program at the time the permit was issued" in determining whether a permit was improvidently issued. The preamble to this regulation states that the term "violations review criteria" means "those permitting provisions of a regulatory program under which the regulatory authority reviews the relationship of the applicant to outstanding violations and delinquent penalties and fees and determines whether a permit should be withheld," (54 FR 18438, 18438–9, April 28, 1989). The preamble also lists the minimum violations review criteria that a regulatory program should include and further states that State programs may include more stringent criteria (54 FR 18438, 18440–18441, April 28, 1989).

In specifying the violations review criteria as listed in the above referenced **Federal Register**, New Mexico proposed to adopt the minimum violation review criteria specified by the Federal regulations. New Mexico proposed to retain the general nature of the criteria and did not specify the actual calendar dates on which each of the criteria became or would become effective. Therefore, New Mexico must determine the appropriate criteria and corresponding effective dates at the time that a review is conducted.

Because New Mexico proposed to include the minimum violations review criteria required by the Federal regulations, the Director finds that proposed CSMC Rule 80–1–11–20(b)(1)(iii) is no less effective than 30 CFR 773.20(b)(1) and approves it.

11. CSMC Rule 80–1–11–29(d), Conditions of Permits for Environment, Public Health, and Safety

New Mexico proposed at CSMC Rule 80–1–11–29(d) that a permittee, within 30 days of receiving a cessation order issued under CSMC Rule 80–1–30–11, submit to the Director of MMD (1) the information required at CSMC Rule 80–1–7–13(c) concerning identification of interests, (2) any new information needed to correct or update information previously submitted under CSMC Rule 80–1–7–13(c), or (3) a written notification that there has been no change in the information previously submitted under CSMC Rule 80–1–7–13(c). With one exception discussed below, proposed CSMC Rule 80–1–11–29(d) is substantively identical to the corresponding Federal regulation at 30 CFR 773.17(i). The Federal regulation at 30 CFR 773.17(i) requires all permits to include a condition specifying that, within 30 days after a cessation order is issued under 30 CFR 843.11 or the State program equivalent, the permittee must submit certain ownership and control information to the regulatory authority, or if there has been no change since the immediately preceding submittal of such information, to so notify the regulatory authority in writing. As explained in the preamble to the Federal regulation (54 FR 8982, 8986, March 2, 1989), the permit condition at 30 CFR 773.17(i) applies whenever a cessation order is issued, regardless of the issuing authority. Proposed CSMC Rule 80–1–11–29(d) requires a permittee to update ownership and control information only for cessation orders issued by New Mexico under CSMC Rule 80–1–30–11. It does not require updating for Federal cessation orders issued under 30 CFR 843.11.

Because proposed CSMC Rule 80–1–11–29(d) requires a permittee to update ownership and control information only for cessation orders issued by New Mexico under CSMC Rule 80–1–30–11, the Director finds that proposed CSMC Rule 80–1–11–29(d) is less effective than the corresponding Federal regulation at 30 CFR 773.17(i). The Director approves proposed CSMC Rule 80–1–11–29(d) but requires New Mexico

to revise it to require the permittee to submit to the Director of MMD the ownership and control information required at CSMC Rule 80–1–11–29(d)(1), (d)(2), and (d)(3) when a Federal cessation order has been issued in accordance with 30 CFR 843.11.

12. CSMC Rule 80–1–19–15(c), Performance Standards for Roads Used for Coal Exploration

New Mexico proposed to revise CSMC Rules 80–1–19–15(c)(2), (c)(3), and (c)(4) to correct references to other rules and to clarify the requirements for new and existing roads used for conducting coal exploration activities. Proposed CSMC Rule 80–1–19–15(c)(2) requires all new roads used for exploration for less than 6 months to meet the requirements of CSMC Rules 80–1–20–150(b) through (f) In addition, new roads that will be used longer than 6 months must meet the requirements of CSMC Rules 80–1–20–150 through 151, and all new roads must comply with CSMC Rules 80–1–20–180 and 181 pertaining to other transportation facilities, support facilities, and protection of utilities. Proposed CSMC Rule 80–1–19–15(c)(3) requires, among other things, that (1) all existing roads comply with the requirements of CSMC Rules 80–1–20–180 and 181, (2) existing roads that are significantly altered for exploration activities must comply with the requirements of CSMC Rules 80–1–20–150(b) through (g), and (3) any road that will remain as a permanent road after exploration activities are completed must meet the design, construction, alteration, and maintenance requirements at CSMC Rules 80–1–20–150 through 151. Proposed CSMC Rule 80–1–19–15(c)(4) requires upon completion of exploration activities that all roads either be reclaimed in accordance with CSMC Rules 80–1–20–150(g) or meet the requirements for permanent roads at CSMC Rules 80–1–20–150 through 151.

The corresponding Federal regulations at 30 CFR 815.15(b) require that all roads and other transportation facilities used for coal exploration must comply with applicable provisions at 30 CFR 816.150(b) through (f) concerning general requirements for roads, 30 CFR 816.180 concerning protection of existing utility installations, and 30 CFR 816 181 concerning requirements for support facilities.

Whereas the Federal regulations require all roads used for coal exploration to comply with the specified requirements, New Mexico's proposed rules specify requirements for three separate categories of roads used for coal exploration activities: new roads, existing roads, and existing roads that are significantly altered for exploration activities. New Mexico has not specifically addressed requirements for existing roads that are not significantly altered for exploration, but such roads are subject to some of New Mexico's performance standards for exploration roads because (1) proposed CSMC Rule 80–1–19–15(c)(3) requires all existing roads to comply with all applicable Federal, State and local requirements and with the requirements of sections 20–180 and 20–181, and (2) proposed CSMC Rule 80–1–19–15(c)(4) requires all roads used during exploration to comply with the reclamation requirements at subparagraphs (c)(4)(i) and (ii). New Mexico's proposed rules do not, as do the Federal regulations at 30 CFR 815.15(b) through its reference to 30 CFR 816.150(b) through (f), require that all roads comply with the corresponding general performance standards for roads at CSMC Rules 80–1–20–150(b) through (f). Specifically, existing roads that are used for coal exploration and that are not significantly altered are not required to comply with CSMC Rule 80–1–20–150 (b) through (f).

The Federal regulations at 30 CFR 815.1 state that 30 CFR Part 815 sets forth the performance standards required for coal exploration that substantially disturbs the natural land surface, and the Federal regulations at 30 CFR 815.15(b) require all roads used for coal exploration to comply with the applicable provisions of 30 CFR 816.150(b) through (f). However, the preamble to 30 CFR 815.15(b) states that the extent to which the requirements of 30 CFR 816.150 must be applied to exploration roads can be limited to "the extent that the coal exploration activities substantially disturb the land where the road is located" (53 FR 45190, 45198, November 8, 1988). According to the definition of "substantially disturb" at 30 CFR 701.5, the construction of roads and other access routes for coal exploration constitutes substantial disturbance. The preamble also explains what coal exploration road-use activities OSM believes do not constitute substantial disturbance.

> The determination of when "substantial disturbance" has occurred must be made on a site-by-site basis. OSMRE [OSM] does not believe the routine maintenance of an existing road used for coal exploration is substantial disturbance requiring the road to be reclaimed in accordance with the performance standards of section 515 of the Act (SMCRA). To use an existing road that is in poor condition due to lack of maintenance, a coal exploration operator may need to blade the road surface, replace some culverts, or do other minor routine maintenance. Such routine maintenance of an existing road would not be considered substantial disturbance of the natural land surface that would require reclamation of the road (53 FR 45190, 45198, November 8, 1988).

Existing CSMC Rule 80–1–19–15(c)(3)(ii) states that significantly altering an existing road for coal exploration includes, but is not limited to, altering the gradient, width, or route of the road. New Mexico has not specified what it considers to be activities that do not significantly alter existing roads. However, because New Mexico has not listed such routine road maintenance activities as grading the surface, cleaning or replacing culverts, and other minor rehabilitation activities with the activities that significantly alter a road and because OSM does not believe that such activities cause substantial disturbance to the land surface, it is reasonable to conclude that these are road construction and maintenance activities that do not significantly alter existing roads used for coal exploration in New Mexico. Therefore, to the extent that (1) proposed CSMC Rules 80–1–19–15(c)(3) and (c)(4) apply to existing roads that are not significantly altered for coal exploration activities and (2) the activities that define such roads are limited to surface grading, cleaning or replacing culverts, and other minor rehabilitation activities, the Director finds that these aspects of proposed CSMC Rules 80–1–19–15(c)(3), and (c)(4) are not inconsistent with the corresponding Federal regulations at 30 CFR 815.15(b).

With respect to the other requirements, proposed CSMC Rules 80–1–19–15(c)(2), (c)(3), and (c)(4) reference the requirements of CSMC Rule 80–1–20–180. CSMC Rule 80–1–20–180 is titled "[o]ther transportation facilities" and sets general performance standards for the design, construction, reconstruction, maintenance and restoration of railroad loops, spurs, sidings, surface conveyor systems, chutes, aerial tramways, or other transportation facilities. New Mexico's listing of railroad loops, spurs, sidings, surface conveyor systems, chutes, aerial tramways, and other transportation facilities at CSMC Rule 80–1–20–180 as "other transportation facilities" is not inconsistent with the preamble for the Federal regulations at 30 CFR 815.15(b) that identified "other transportation facilities" as "any 'other transportation facilities' used in the exploration operation besides roads" (48 FR 40622, 40632; September 8, 1983). However,

the reference to CSMC Rule 80–1–20–180 at proposed CSMC Rules 80–1–19–15(c)(2), and (c)(3), does not satisfy the requirement of the Federal regulations at 30 CFR 815.15(b) that "other transportation facilities" used for coal exploration must meet the applicable performance standards for roads, support facilities, and utilities.

Because New Mexico's proposed rules do not require "other transportation facilities" used for exploration activities to comply with the performance standards for roads, support facilities, and utilities, respectively, at CSMC Rules 80–1–20–150(b) through (g) and 20–181(a) and (b), the Director finds that proposed CSMC Rules 80–1–19–15(c)(2), (c)(3), and (c)(4) are less effective than the corresponding Federal regulations at 30 CFR 815.15(b). The Director approves CSMC Rules 80–1–19–15(c)(2), (c)(3) and (c)(4) but requires New Mexico to further revise CSMC Rule 80–1–19–15(c) to require that "other transportation facilities" used for coal exploration activities comply with CSMC Rules 80–1–20–150(b) through (g), and 20–181(a) and (b).

13. CSMC Rule 80–1–20–91(c) and 20–93(e), Coal Processing Waste Dams and Embankments

New Mexico proposed new paragraphs at CSMC Rules 80–1–20–91(c) and 20–93(e) that prohibit any dam, embankment, or impounding structure constructed of coal processing waste or intended to impound coal processing waste from being retained permanently as part of the postmining land use unless it is reclaimed according to CSMC Rule 80–1–9–25 and positive drainage with no impoundment of water has been achieved. New Mexico's term "coal processing waste" has the same meaning as the Federal term "coal mine waste" (56 FR 67520, 67523; December 31, 1991).

The corresponding Federal regulations at 30 CFR 816.84(b)(1) and 817.84(b)(1), in part, prohibit impounding structures constructed of coal mine waste or intended to impound coal mine waste from being retained permanently as part of the approved postmining land use. The Federal regulations at 30 CFR 816.84 and 817 84 further require such structures to meet the requirements at 30 CFR 816.81 and 817 81.

Proposed CSMC Rules 80–1–20–91(c) and 20–93(e) require dams, embankments, and impounding structures constructed of coal processing waste or intended to impound coal processing waste to be reclaimed "in accordance with Section 9–25." New Mexico's rules at CSMC Rule 80–1–9–25 set forth permit application requirements for reclamation plans and designs concerning ponds, impoundments, banks, dams and embankments. It does not contain the performance standards that reclaimed structures constructed of or impounding coal processing waste must meet as do the Federal regulations at 30 CFR 816.81 and 817.81.

More specifically, the Federal regulations at 30 CFR 816.81(a) and 817.81(a) require that coal mine waste be hauled or conveyed and placed in its final location in a controlled manner to (1) minimize adverse effects of leachate and surface-water runoff on surface and ground water quality and quantity, (2) ensure mass stability and prevent mass movement during and after construction, (3) ensure that the final disposal facility is suitable for reclamation and revegetation compatible with the natural surroundings and the approved postmining land use, (4) not create a public hazard, and (5) prevent combustion. The intent of these requirements is to ensure that surface deposits of coal mine waste retained permanently as part of the approved postmining land use exhibit long-term stability with respect to drainage control, surface erosion, mass movement, combustion, public safety, and seepage (48 FR 44006, 44012, September 26, 1983). New Mexico's proposed reference to "Section 9–25" does not provide equivalent requirements to assure the long-term stability and safety of such deposits.

On this basis, the Director finds that proposed CSMC Rules 80–1–20–91(c) and 20–93(e) are less effective than the corresponding Federal regulations at 30 CFR 816.84(b)(1) and 817.84(b)(1) and does not approve them to the extent that they include the phrase "unless these structures have been reclaimed according to Section 9–25 and positive drainage with no impoundment of water has been achieved."

14. CSMC Rule 80–1–20–93, Design and Construction of Coal Processing Waste Dams and Embankments

(a) CSMC Rule 80–1–20–93(a)(1), Freeboard and Water Surface Elevation Design

CSMC Rule 80–1–20–93(a)(1) specifies a minimum design freeboard of 3 feet for each dam and embankment constructed of coal processing waste or intended to impound such waste. New Mexico proposed to revise CSMC Rule 80–1–20–93(a)(1) to require that the maximum water elevation shall be determined by the freeboard hydrograph criteria contained in the U.S. Soil Conservation Service's (SCS) Practice Standard 378, "Ponds," dated October 1978.

The counterpart Federal regulations at 30 CFR 816.84(b)(1) and 817.84(b)(1), by reference to 30 CFR 816.49 (a) and (c) and 817.49 (a) and (c), do not specify a minimum freeboard for impoundments but require, at 30 CFR 816.49(a)(4) and 817.49(a)(4) "adequate freeboard to resist overtopping by waves and by sudden increases in storage volume." The Federal regulations also do not specify methods for determining "adequate freeboard" or for calculating maximum water surface elevations.

As proposed, CSMC Rule 80–1–20–93(a)(1) requires that maximum water surface elevations for all dams and embankments constructed of coal processing waste or intended to impound such waste shall be determined in accordance with Practice Standard 378. However, SCS limits the use of Practice Standard 378 to ponds (1) that are located where failure of the dam will not result in loss of life, damage to homes, commercial or industrial buildings, main highways, or railroads, or in the interruption of public utilities, (2) whose product of effective height of dam times storage capacity is less than 3000, or (3) the effective height of the dam is 35 feet or less (Scope, Practice Standard 378, Ponds, October, 1978, pg. 1). Thus, SCS does not deem Practice Standard 378 appropriate for calculating the maximum water surface elevations of ponds in high hazard locations or for the largest ponds that meet the size or other requirements at 30 CFR 77.216(a). Some dams or embankments constructed of coal processing waste or intended to impound such waste that meet the criteria of 30 CFR 77.216(a) may be of sufficient size that the product of their effective dam height and storage capacity would exceed 3000. According to SCS, the provisions of Practice Standard 378 are not adequate for such structures.

Further, prior to February 26, 1991 (56 FR 7806, 7810), New Mexico's approved program required maximum water surface elevations for dams and embankments constructed of coal processing waste or intended to impound such waste and that meet the size criteria of 30 CFR 77.216(a) to be determined according to SCS Technical Release No. 60, "Earth Dams and Reservoirs," June 1976. Under these previous New Mexico rules, the requirements of Practice Standard 378 could be applied only to dams and embankments not meeting the size criteria of 30 CFR 77.216(a).

Because proposed CSMC Rule 80–1–20–93(a)(1) would allow the procedures of SCS Practice Standard 378 to be used for determining the maximum water surface elevations for dams and embankments constructed of coal processing waster or intended to impound such waste that are outside the Practice's stated scope of applicability with regard to size and to potential hazards related to the structure's location, the Director finds that proposed CSMC Rule 80–1–20–93(a)(1) is less effective than the corresponding Federal regulations at 30 CFR 816.84(a)(1) and 817.84(a)(1). Accordingly, the Director does not approve proposed CSMC Rule 80–1–20–93(a)(1).

(b) CSMC Rule 80–1–20–93(c), Storage Design

New Mexico proposed to revise CSMC Rule 80–1–20–93(c) to require that dams or embankments constructed of or impounding coal processing waste shall be designed, constructed, and maintained so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period. The counterpart Federal regulations at 30 CFR 816.84(e) and 817.84(e) require that such structures be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period. The Federal regulations at 30 CFR 816.84(f) and 817.84(f) require that at least 90 percent of the water stored in such structures during the design precipitation event must actually be removed within a 10-day period following the design precipitation event. New Mexico has proposed to combine the requirements of 30 CFR 816.84 (e) and (f) and 817.84 (e) and (f) into one rule. The Director finds that proposed CSMC Rule 80–1–20–93(c) is no less effective than the Federal regulations at 30 CFR 816.84 (e) and (f) and 817.84 (e) and (f) and approves it.

15. CSMC Rules 80–1–20–97 (b) and (c), Protection of Fish, Wildlife, and Related Environmental Values

At 30 CFR 931.16(a), the Director previously required New Mexico to revise its program to require protection of threatened and endangered species from underground mining activities. New Mexico proposed to revise CSMC Rule 80–1–20–97 (b) and (c) to prohibit operators from conducting surface coal mining operations that are likely to jeopardize the continued existence of endangered or threatened species and their habitats, including bald and golden eagles, their nests, and eggs. The prohibition would extend to threatened and endangered species listed by the "New Mexico Energy, Minerals and Natural Resources and Game and Fish Department" in addition to those listed by the Secretary of the Interior. The corresponding Federal regulations at 30 CFR 816.97 (b) and (c), and 817.97 (b) and (c) prohibit operators from conducting, respectively, "surface mining activities" or "underground mining activities" that are likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the Interior and their habitats, including bald and golden eagles, their nests, and eggs.

New Mexico's proposed CSMC Rules 80–1–20–97 (b) and (c) differ from the Federal counterparts in three ways. First, the Federal definitions of "surface mining activities" and "underground mining activities" at 30 CFR 701.5 include reclamation activities in addition to mining activities. At CSMC Rule 80–1–1–5, New Mexico's definition of "surface coal mining operations" includes activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine. The definition does not include reclamation operations as an activity of "surface coal mining operations." Therefore, New Mexico's use of the term "surface coal mining operations" in proposed CSMC Rule 80–1–20–97 (b) and (c) does not extend the protection of threatened and endangered species to areas disturbed solely by the conduct of reclamation operations. Because "surface mining activities" and "underground mining activities," as defined at 30 CFR 701.5, include reclamation operations in addition to mining operations, the effect of the use of these terms in 30 CFR 816.97 (b) and (c) and 817.97 (b) and (c) is to require protection of threatened and endangered species from both mining operations and reclamation operations.

Second, New Mexico proposed to prohibit surface coal mining operations that are likely to jeopardize the continued existence of endangered or threatened species listed by the "New Mexico Energy, Minerals and Natural Resources and Game and Fish Department" in addition to those listed by the Secretary of the Interior. The corresponding Federal regulations at 30 CFR 816.97(b) and 817.97(b) require protection of species listed by the Secretary, but do not prohibit the protection of other species. Therefore, New Mexico's proposed inclusion of additional species, while not required, does not render the proposed rule less effective than the Federal requirements.

Third, the Federal regulations at 30 CFR 816.97(b) and 817.97(b) prohibit surface or underground mining activities that are likely to affect species listed by the Secretary of the Interior as threatened and endangered species in either of two ways: (1) by jeopardizing the continued existence of these species or (2) by causing destruction or adverse modification of the species' designated critical habitats. The beginning portion of the first sentence of proposed CSMC Rule 80–1–20–97(b) clearly prohibits mining activities that are likely to jeopardize the continued existence of listed species, but, because of its grammatical structure, the remainder of the sentence is less clear. OSM interprets the sentence as prohibiting the destruction or adverse modification of designated critical habitats of threatened or endangered species by surface and underground mining activities. However, OSM recommends that New Mexico revise the rule in a future amendment and insert the word "or" between the words "Department" and "which" so that the sentence reads "* * * Game and Fish Department or which are likely to result * * *."

Because New Mexico's use of the term "surface coal mining operations" in proposed CSMC Rules 80–1–20–97 (b) and (c) does not extend the protection of threatened and endangered species to areas disturbed by the conduct of reclamation operations, the Director finds that proposed CSMC Rules 80–1–20–97 (b) and (c) are less effective than the corresponding Federal regulations at 30 CFR 816.97 (b) and (c) and 817.97 (b) and (c) and does not approve them. Therefore, New Mexico has not satisfied the required amendment at 30 CFR 931.16(a) and the required amendment remains outstanding.

16. CSMC Rule 80–1–20–116, Revegetation Standards for Success

(a) CSMC Rule 80–1–20–116(a), Standards for Success and Measuring Techniques

New Mexico's existing CSMC Rule 80–1–20–116(a) is referenced by several of New Mexico's proposed rules concerning revegetation success standards. It requires that (1) success of revegetation be measured by techniques approved by the Director of MMD after consultation with appropriate State and Federal agencies, and (2) comparison of ground cover and productivity may be made on the basis of (a) referenced areas, (b) technical guidance procedures published by the U.S. Department of Agriculture (USDA), or other acceptable

techniques approved by the Director, or (c) historic records in accordance with CSMC Rule 80–1–8–19(b). CSMC Rule 80–1–20–116(a) also requires that management of a reference area shall be comparable to the management practices required for the approved postmining land use of the permit area.

The Federal regulations at 30 CFR 816.116(a) and 817.116(a) require, among other things, that success of revegetation shall be judged on the general revegetation requirements of 30 CFR 816.111 and 817.111. These revegetation requirements pertain to diversity, permanence, seasonality, regenerative capacity and compatibility with the postmining land use. The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program.

New Mexico's existing CSMC Rules 80–1–20–111 and 112 are no less effective than the Federal regulations at 30 CFR 816.111 and 817.111. However, New Mexico's CSMC Rule 80–1–20–116(a) does not reference its rules at CSMC 80–1–20–111 and 112, and therefore does not require that the success of revegetation be based on the general revegetation requirements of those rules. Instead it requires that standards for success of revegetation consider only productivity and ground cover. Further, CSMC Rule 80–1–20–116(a) states that comparison of ground cover and productivity may be made on the basis of technical guidance procedures published by the USDA; however, because no specific citations are provided, it is not clear whether these technical guidance procedures are measuring techniques or criteria for establishing technical standards. CSMC Rule 80–1–20–116(a) also requires that the methods for measuring revegetation success be approved by the Director of MMD after consultation with appropriate State and Federal agencies; it does not require that all standards of success and measuring techniques be approved by the Director of OSM, i.e., included in an approved regulatory program.

For these reasons, the Director finds that CSMC Rule 80–1–20–116(a) is less effective than 30 CFR 816.116(a) and (a)(1) and 817.116(a) and (a)(1). The Director approves it but requires that New Mexico revise CSMC Rule 80–1–20–116(a) to (1) reference CSMC Rules 80–1–20–111 and 112, (2) identify the specific technical guidance materials published by the USDA, and (3) require that all standards for success and measuring techniques also be approved by the Director of OSM for inclusion in the approved program.

(b) CSMC Rule 80–1–20–116(b)(1), Revegetated Area Ground Cover and Productivity

New Mexico's proposed CSMC Rule 80–1–20–116(b)(1) requires that ground cover and productivity of living plants on the revegetated area within the permit area shall be equal to the ground cover and productivity of living plants on the approved reference area or to the standards obtained using other techniques approved by the Director of MMD. In addition, New Mexico proposed to delete from CSMC Rule 80–1–20–116(b)(1) the following exceptions to the requirement that the period of extended responsibility begin after the last year of augmented seeding, fertilizing, or irrigation: (1) interseeding to establish diversity with species of a different aspection from the original seed mixture and (2) supplemental fertilization.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. The Federal regulations at 30 CFR 816.116(c)(1) and 817.116(c)(1) require that the period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding only husbandry practices that are approved in accordance with 30 CFR 816.116(c)(4) and 817.116(c)(4).

New Mexico's proposed deletion of interseeding and supplemental fertilization as exceptions to activities that would restart the responsibility period at CSMC Rule 80–1–20–116(b)(1) is no less effective than the Federal regulations at 30 CFR 816.116(c)(1) and 817.116(c)(1). However, because New Mexico's proposed rule (1) does not require that all success standards and sampling techniques be approved by the Director of OSM and (2) is not inclusive of "other work" in addition to augmented seeding, fertilizing, and irrigation, New Mexico's proposed rule at CSMC Rule 80–1–20–116(b)(1) is less effective than the Federal regulations at 30 CFR 816.116(a)(1) and (c)(1) and 817.116(a)(1) and (c)(1). The Director approves the proposed revision of CSMC Rule 80–1–20–116(b)(1), but requires that New Mexico further revise it to require that (1) all revegetation success standards and measuring techniques be approved by the Director of OSM as well as the Director of MMD and (2) the period of extended responsibility begin after the last year of augmented seeding, fertilizing, irrigation, or other work.

(c) CSMC Rule 80–1–20–116(b)(3), Evaluation of Ground Cover, Production, and Stocking

New Mexico proposed at CSMS Rule 80–1–20–116(b)(3) to delete the existing paragraph and replace it with the requirements that (1) standards for success shall include criteria representative of unmined lands under proper management in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking, (2) ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard, and (3) the sampling techniques for measuring success shall use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error). In addition, New Mexico proposed to recodify CSMC Rules 80–1–20–116(b)(3)(i) through (iv) as CSMC Rules 80–1–20–116(b)(4) through (b)(7).

With the exception of the phrase "under proper management," New Mexico's proposed rule is substantively identical to the Federal regulation at 30 CFR 816.116(a)(2). The phrase "under proper management" ensures that the success criteria would not be representative of unmined lands that were in a degraded condition. Therefore, the Director finds that New Mexico's proposed CSMC Rule 80–1–20–116(b)(3) is no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) and approves it.

(d) CSMC Rule 80–1–20–116(b)(6), Revegetation Success Standards for Cropland

New Mexico proposed at CSMC Rule 80–1–20–116(b)(6) to delete exceptions to the requirement that cropland production from the mined area be equal to or greater than that of the approved standard for the last two consecutive growing seasons of the 5- or 10-year responsibility period. The deleted exceptions allowed the Director of MMD to modify the length of the period of responsibility for revegetation success if a contract between the operator and the postmining land user is entered into or already exists.

The Federal regulations at 30 CFR 816.116(b)(2) and 817.116(b)(2) require for areas developed for cropland that production on the revegetated area be at least equal to that of a reference area or

other success standards. The Federal regulations at 30 CFR 816.116(c)(3) and 817.116(c)(3) require that vegetation parameters required in 30 CFR 816.116(b) and 817.116(b) shall equal or exceed the approved success standard for at least the last 2 consecutive years of the responsibility period. The Federal regulations at 30 CFR 816.116 and 817.116 do not allow for exceptions to the length of the responsibility period for revegetation success.

New Mexico's proposed revegetation success standards for cropland production are substantively identical to those in the Federal regulations. Therefore, the Director finds that New Mexico's proposed CSMC Rule 80–1–20–116(b)(6) is no less effective than the Federal regulations at 30 CFR 816.116(b)(2) and (c)(3) and 817.116(b)(2) and (c)(3) and approves it.

(e) CSMC Rule 80–1–20–116(b)(7), Determination of Revegetation Success on Areas To Be Developed for Fish and Wildlife Management or Forest Land

New Mexico proposed to revise CSMC Rule 80–1–20–116(b)(7) to require, among other things, that ground cover shall not be less than that required to achieve the approved postmining land use on areas to be developed for fish and wildlife management or forest land. The Federal regulations at 30 CFR 816.116(b)(3)(iii) and 817.116(b)(3)(iii) require that ground cover shall not be less than that needed to achieve the approved postmining land use on areas to be developed for fish and wildlife habitat, recreation, shelterbelts, or forest products.

New Mexico's proposed requirement for ground cover on lands to be developed for fish and wildlife management or forest land is substantively identical to the Federal regulations. However, New Mexico does not have revegetation success requirements for ground cover on lands to be developed for recreation or shelterbelts. For this reason, the Director finds that New Mexico's proposed revision of CSMC Rule 80–1–20–116(b)(7) is less effective than the Federal regulations at 30 CFR 816.116(b)(3)(iii) and 817.116(b)(3)(iii). The Director approves proposed CSMC Rule 80–1–20–116(b)(7) but requires New Mexico to further revise it to address ground cover requirements on lands to be developed for recreation and shelterbelts.

(f) CSMC Rule 80–1–20–116(d), Determination of Revegetation Success for Areas 40 Acres or Less in Size

New Mexico proposed to delete in its entirety existing CSMC Rule 80–1–20–116(d) that allowed for exceptions to the revegetation success standards and the period of responsibility on mine plan areas of 40 acres or less. The Federal regulations at 30 CFR 816.116 and 817.116 do not provide for exceptions to revegetation success standards and responsibility periods based on the size of the surface coal mining and reclamation operation. Therefore, the Director finds that New Mexico's proposed deletion of CSMC Rule 80–1–20–116(d) is no less effective than the Federal regulations at 30 CFR 816.116 and 817.116 and approves it.

17. CSMC Rules 80–1–20–117, Revegetation Success Standards for Trees and Shrubs

(a) CSMC Rule 80–1–20–117 (a), (b)(1), and (b)(2), Trees and Shrubs Stocking for Forest Land

New Mexico proposed a new paragraph at CSMC Rule 80–1–20–117(a) that requires, on commercial and noncommercial forest lands at the time of bond release, at least 80 percent of all trees and shrubs used to determine revegetation success to have been in place for at least 60 percent of the applicable minimum period of responsibility. New Mexico also proposed to recodify existing CSMC Rules 80–1–20–117 (a) through (c) as CSMC Rules 80–1–20–117 (b) through (d).

CSMC Rules 80–1–20–117 (b)(1) and (b)(2) address performance standards for stocking of woody species on commercial and noncommercial forest lands including the requirements that a countable tree or shrub be in place at least 2 growing seasons and be alive and healthy.

The Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) apply to land developed for fish and wildlife habitat, recreation, shelterbelts, or forest products and require that (1) trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use, (2) trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons, and (3) at the time of bond release, at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility.

The existing title for CSMC Rule 80–1–20–117 is misleading because it refers only to forest land whereas CSMC Rule 80–1–20–117(d) addresses requirements for areas where woody plants are used for wildlife management, recreation, and shelterbelts as well as forest uses. OSM recommends that in a future amendment New Mexico revise the title to accurately indicate all subjects of the rule.

With two exceptions, New Mexico's proposed revegetation success standards at CSMC Rules 80–1–20–117 (a), (b)(1), and (b)(2) are substantively identical to the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). The exceptions are that these proposed standards (1) do not also apply to lands developed for use as fish and wildlife habitat, recreation, and shelterbelts, and (2) lack the requirement that trees and shrubs used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use.

For these reasons, the Director finds that New Mexico's proposed CSMC Rules 80–1–20–117 (a), (b)(1), and (b)(2) are less effective than the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). The Director approves CSMC Rules 80–1–20–117 (a), (b)(1), and (b)(2) but requires that New Mexico further revise CSMC Rules 80–1–20–117 (a) and (b) to (1) require that they apply to land developed for use as fish and wildlife habitat, recreation, and shelterbelts and (2) include the requirement that trees and shrubs used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use.

(b) CSMC Rule 80–1–20–117(b)(3), Areas Exempt From a Stocking Requirement

New Mexico proposed at CSMC Rule 80–1–20–117(b)(3) to revise the exception to stocking requirements on forest lands for rock areas, permanent roads, and surface water drainage ways on the revegetated area by clarifying that the rock areas must replace similar natural features. Although there is no direct Federal counterpart, the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that revegetation success standards shall include criteria representative of the unmined lands in the area being reclaimed. Therefore, the Director finds that the proposed clarification of CSMC Rule 80–1–20–117(b)(3) is consistent with the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) and approves it.

(c) CSMC Rules 80–1–20–117 (c) and (d), Performance Standards for Areas Where Woody Plants Are Used for Commercial Forest Land and for Wildlife Management, Recreation, Shelter Belts, or Forest Uses Other Than Commercial Forest Land

New Mexico's rules set separate minimum performance standards for areas used for (1) commercial forests at CSMC Rule 80–1–20–117(c) and (2) wildlife management, recreation, shelterbelts, or forest uses other than commercial forest land at CSMC Rule 80–1–20–117(d). The Federal regulations do not distinguish between various types of forest products, but at 30 CFR 816.116(b)(3) and 817.116(b)(3) they address stocking and ground cover standards for areas to be developed for fish and wildlife habitat, recreation, shelterbelts, or forest products.

(i) *CSMC Rule 80–1–20–117(c), Performance Standards for Areas Where Woody Plants Are Used for Commercial Forest Land.* CSMC Rule 80–1–20–117(c)(1) requires that the minimum stocking of trees or shrubs shall be determined by the State Forester; however, it is not clear whether the stocking rate will be determined by the State Forester on a permit specific or program-wide basis as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i).

CSMC Rule 80–1–20–117(c)(2) requires that 75 percent of the countable trees or shrubs be commercial tree species. As discussed in finding No. 17(a) above, the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require that the trees and shrubs used and the planting arrangement shall have utility for the approved postmining land use. Planting arrangements for commercial forests will be dictated by the stocking requirement. Therefore, both the stocking rate and the planting arrangement on commercial forest land would be approved by the agency responsible for the administration of forest lands.

CSMC Rule 80–1–20–117(c)(3) references CSMC Rules 80–1–20–116(b)(3)(iv) and 80–1–20–117(a) for procedures used to determine the number of trees and shrubs and ground cover. In this amendment, New Mexico proposed to recodify CSMC Rules 80–1–20–116 and 117 so that paragraphs 20–116(b)(3)(iv) and 20–117(a) are now, respectively, 20–116(b)(7) and 20–117(b).

CSMC Rule 80–1–20–117(c)(4) requires that at the time of bond release, the permittee shall demonstrate that the stocking of trees and shrubs and the ground cover satisfy CSMC Rules 80–1–20–116(b)(7) and 80–1–20–117(d)(1). CSMC Rule 80–1–20–116(b)(7) requires that stocking meet the standard described in CSMC Rule 80–1–20–117, and CSMC Rule 80–1–20–117(d)(1) requires agency approval for baseline inventory sampling methods. The appropriate bond release success standards for stocking and ground cover are found at New Mexico's proposed CSMC 80–1–20–117(d)(2).

The Director finds that CSMC Rule 80–1–20–117(c) is less effective than the Federal requirements at 30 CFR 816.116(b)(3) and 817.116(b)(3). The Director approves it but requires that New Mexico revise (1) CSMC Rule 80–1–20–117(c)(1) to clarify whether the stocking rate for commercial forest land will be determined by the State Forester on a permit-specific or program-wide basis, (2) CSMC Rule 80–1–20–117(c)(3) to reference the correct rules for procedures to determine the number of trees and shrubs and ground cover on commercial forest land, and (3) CSMC Rule 80–1–20–117(c)(4) to reference CSMC Rule 80–1–20–117(d)(2) for the appropriate bond release success standards for stocking and ground cover.

(ii) *CSMC Rule 80–1–20–117(d), Performance Standards for Areas Where Woody Plants Are Used for Wildlife Management, Recreation, Shelter Belts, or Forest Uses Other Than Commercial Forest Land.* New Mexico proposed to revise CSMC Rule 80–1–20–117(d)(1) to require consultation with and approval by both the State Forester and the Department of Game and Fish concerning methods for conducting an inventory of trees, half-shrubs, and shrubs to comply with the requirements of CSMC Rules 80–1–8–19 and 80–1–20–116(a). The inventory required by proposed CSMC Rule 80–1–20–117(d)(1) is a premining inventory for baseline data. There is no counterpart Federal regulation requiring OSM or other agency approval for premining sampling methods.

New Mexico proposed to revise CSMC Rule 80–1–20–117(d)(2) to require that the stocking of trees, half-shrubs, shrubs, and the ground cover shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement and shall be approved by the appropriate State agency responsible for the administration of forestry and wildlife programs on a permit specific basis. The proposed revisions at CSMC Rule 80–1–20–117(d)(2) are substantively identical to the counterpart Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i), which require that minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after program-wide or permit-specific consultation and approval with the State agencies responsible for the administration of forestry and wildlife programs. However, New Mexico's CSMC Rule 80–1–20–117(d)(2) incorrectly refers to CSMC Rule 80–1–20–116(a) for (1) production and ground cover success standards and (2) the responsibility period. CSMC Rule 80–1–20–116(b) is the correct reference for both of these subjects.

For the reasons discussed above, the Director finds New Mexico's proposed revisions of (1) CSMC Rule 80–1–20–117(d)(1) are not inconsistent with the Federal regulations, and (2) CSMC Rule 80–1–20–117(d)(2), with the exception of the incorrect cross reference to CSMC Rule 80–1–20–116(a), are no less effective than the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3). The Director approves proposed CSMC Rules 80–1–20–117(d)(1) and (d)(2) but requires that New Mexico correct the reference at CSMC Rule 80–1–20–117(d)(2) regarding success standards and periods of responsibility for revegetation success.

New Mexico's existing CSMC Rule 80–1–20–117(d)(3)(i) requires that upon expiration of the responsibility period, the permittee must demonstrate that the reestablished woody plants are equal to or greater than 90 percent of the minimum stocking requirements for live woody plants of the same life form ascertained pursuant to CSMC Rule 80–1–20–117(a) with 80 percent statistical confidence. New Mexico's proposed CSMC Rule 80–1–20–116(b)(3) and the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require, among other things, that the sampling techniques for measuring success shall use a 90-percent statistical confidence interval. In addition, New Mexico's CSMC Rule 80–1–20–117(d)(3)(i) refers to CSMC Rule 80–1–20–116(a) for (1) production and 0ground cover success standards and (2) the responsibility period whereas CSMC Rule 80–1–20–116(b) is the correct reference for both of these subjects. For the reasons discussed above, the Director finds that New Mexico's existing CSMC Rule 80–1–20–117(d)(3)(i) is less effective than 30 CFR 816.116(a)(2) and 817.116(a)(2). To the extent that it allows the permittee to use an 80-percent statistical confidence interval for demonstrating revegetation success for woody plants, the Director does not approve CSMC Rule 80–1–20–117(d)(3)(i). The Director

requires that New Mexico revise CSMC Rule 80–1–20–117(d)(3)(i) to (1) require that the sampling technique used to measure revegetation success use a 90-percent confidence interval and (2) refer to the correct CSMC rules regarding the success standards and the period of responsibility for revegetation success.

18. CSMC Rule 80–1–20–121(a), Subsidence Control, General Requirements

New Mexico proposed to revise CSMC Rule 80–1–20–121(a) to require, among other things, that an operator prevent subsidence from causing material damage to structures and facilities to the extent technologically and economically feasible. The counterpart Federal regulation at 30 CFR 817.121(a) requires that an operator must adopt measures to prevent subsidence from causing material damage to the extent technologically and economically feasible. New Mexico's proposed rule limits to "structures and facilities" the operator's obligation to prevent subsidence-related material damage. The Federal regulation contains no such limitation and requires the operator to adopt measures that prevent any subsidence-related material damage, including damage to surface lands, not just material damage to "structures and facilities."

For this reason, the Director finds that proposed CSMC Rule 80–1–20–121(a) is less effective than the Federal requirements at 30 CFR 817.121(a) does not approve it to the extent that it includes the phrase "to structures and facilities."

19. CSMC Rule 80–1–20–124, Subsidence, Control, Surface Owner Protection

New Mexico proposed to revise CSMC Rule 80–1–20–124 to require that a person who conducts underground mining that results in subsidence that causes material damage to structures and facilities or reduces the value or reasonably foreseeable value of the surface lands shall, with respect to each surface area affected by subsidence, compensate the owner.

The counterpart Federal regulations at 30 CFR 817.121 (c)(1) and (c)(2) require an operator to (1) correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence, and (2) to the extent required under applicable provisions of State law, correct material damage resulting from subsidence caused to any structures or facilities either by repairing the damage or compensating the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. In addition, SMCRA as amended by the Energy Policy Act of 1992, obligates an operator to repair or compensate the owner without regard to limitations imposed by State laws, for subsidence-related material damage incurred after October 24, 1992, to occupied residential dwellings, structures related thereto, and noncommercial buildings.

The Federal requirements consist of three separate requirments for correcting material damage caused by subsidence. First, damaged land must be restored to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence. The owner cannot be compensated instead of repairing the land and the extent of the repair cannot be limited to the extent of the operator's liability, or lack thereof, under State law. Second, subsidence-related damage to structures and facilities must either be repaired or the owner fully compensated for the damage, as required under applicable provisions of State law. Thus, material damage to structures and facilities must be remedied only if the operator is liable under State law (52 FR 4860, 4864, February 17, 1987). Third, damage to occupied residential dwellings, structures related thereto, and noncommercial buildings occurring after October 24, 1992, must either be repaired or the owner compensated in full. The repair or compensation for damage to these structures and facilities cannot be limited to the operator's liability, or lack thereof, under State law.

New Mexico has proposed to remove the limiting phrase "as provided for by applicable State law" from CSMC Rule 80–1–20–124. Therefore, New Mexico's proposed rule would require that operators compensate owners in full for subsidence-related material damage to structures and facilities. On this point, proposed CSMC Rule 80–1–20–124 is not inconsistent with the Federal requirements, but it is inconsistent with New Mexico's proposed CSMC Rule 80–1–9–39(c) that requires an application to include a description of measures to be taken as required under State law and in accordance with sections CSMC Rule 80–1–20–121 and 124 to mitigate or remedy subsidence-related damage to structures and facilities. In addition, proposed CSMC Rule 80–1–20–124 does not require, as the Federal requirements do, (1) that damaged land be restored to presubsidence conditions, (2) that the owner be provided with the option to have subsidence-related damage to structures and facilities repaired instead of receiving compensation, or (3) that subsidence-related damage occurring after October 24, 1992, to occupied residential dwellings, structures related thereto, and noncommercial buildings must either be repaired or the owner compensated in full regardless of the extent of operator liability under State law.

For these reasons, the Director finds that proposed CSMC Rule 80–1–20–124 is less effective than the Federal regulations at 30 CFR 817.121(c). The Director does not approve CSMC Rule 80–1–20–124 and requires New Mexico to further revise it to (1) require an operator to correct, by restoring the land, any material damage resulting from subsidence caused to surface lands, (2) provide an owner with the option to have subsidence-related damage to structures and facilities repaired instead of receiving compensation, (3) require an operator to either repair or compensate the owner in full regardless of the extent of operator liability under State law for any subsidence-related damage occurring after October 24, 1992, to occupied residential dwellings, structures related thereto, and noncommercial buildings, and (4) remove the inconsistency with proposed CSMC Rule 80–1–9–39(c) with regard to limiting to the extent required under State law, an operator's obligation to remedy subsidence-related material damage to structures and facilities.

20. CSMC Rule 80–1–20–150, Roads, General

(a) CSMC Rule 80–1–20–150(a)(2)(i)

New Mexico proposed at CSMC Rule 80–1–20–150(a)(2)(i) to exclude from classification as a primary road, those roads located within coal spoil and "coal processing waste disposal areas." The corresponding Federal regulations at 30 CFR 816.150(a)(2) and 817.150(a)(2) provide no such exclusion. However, the Federal definition of "road" at 30 CFR 701.5 excludes from regulation as roads, ramps and routes of travel within spoil and "coal mine waste disposal areas."

Proposed CSMC Rule 80–1–20–150(a)(2)(i) differs from the corresponding Federal regulations at 30 CFR 816.150(a)(2) and 817.150(a)(2) by (1) use of the term "coal processing waste" instead of "coal mine waste" and (2) excluding certain roads from being classified as primary roads. On December 31, 1991 (56 FR 67520), OSM

approved New Mexico's definition of "coal processing waste" as no less effective than the Federal definition of the term "coal mine waste." Thus, New Mexico's proposed use of the term "coal processing waste" is consistent with use of the term "coal mine waste" in the Federal definition of "road" at 30 CFR 701.5.

In addition, under the Federal definition of "road," routes of travel within "coal mine waste disposal areas" are not considered to be roads and therefore do not require regulation as roads. New Mexico's definition of "road" excludes from the term, roads within the immediate mining-pit area, but it does not mention roads or routes of travel within spoil or waste disposal areas. Furthermore, proposed CSMC Rule 80–1–20–150(a)(2)(i) excludes such routes from regulation as primary roads. However, CSMC Rule 80–1–20–150(a)(3), by classifying as ancillary roads any roads not classified as primary roads, thereby requires such roads to be regulated as ancillary roads. In effect, proposed CSMC Rule 80–1–20–150(a)(2)(i) requires those portions of roads located within coal spoil and coal processing waste disposal areas to meet the requirements of CSMC Rule 80–1–20–150 (b) through (g). Although the Federal regulations do not require such roads to meet the performance standards for roads at 30 CFR 816.150 and 817.150, neither do they prohibit the States from including such requirements in their programs.

For these reasons, the Director finds that New Mexico's definition of primary road at proposed CSMC Rule 80–1–20–150(a)(2)(i) is no less effective than the Federal regulations at 30 CFR 816.150(a)(2) and 817.150(a)(2) and approves it.

(b) CSMC Rule 80–1–20–150(b)(9)

CSMC Rule 80–1–20–150(b)(9) requires for road embankments, including both ancillary and primary roads, a minimum safety factor of 1.3, except that the Director may on the basis of "factors described in Subparagraph (c) of this Section 20–150" find that a safety factor of less than 1.3 is reasonable for specific ancillary road sites. Proposed subparagraph (c) is incorrectly referenced because it addresses the use of fords or low-water crossings on ancillary roads but has no requirements that are relevant to the design and construction or reconstruction of roads. CSMC Rule 80–1–20–150(b)(9) should reference proposed subparagraph (d) (existing subparagraph (c)), which does address the design and construction or reconstruction of roads.

Because of the incorrect reference to subparagraph (c), the Director finds that CSMC Rule 80–1–20–150(b)(9) is less effective than the Federal requirements for ancillary roads at 30 CFR 816.150 and 817.150. The Director approves CSMC Rule 80–1–20–150(b)(9) but requires New Mexico to revise it to reference subparagraph (d) instead of subparagraph (c).

(c) CSMC Rule 80–1–20–150(c)

New Mexico proposed at CSMC Rule 80–1–20–150(c) to prohibit vehicular use of fords and low water crossings on ancillary roads any time there is visible surface flow in the stream. The prohibition applies only to ancillary roads and is not specifically limited by stream type. Because perennial streams by definition at CSMC Rule 80–1–1–5 flow continuously during all of the calendar year, proposed CSMC Rule 80–1–20–150(c) would prohibit any vehiclur use of fords and low-water crossings on ancillary roads located in perennial streams. The Federal regulations at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6) address fords and low-water crossings of perennial and intermittent streams by primary roads, but there are no direct counterpart Federal regulations that specifically address fords and low-water crossings on ancillary roads.

At the time of original program approval (finding No. D.4(c) (xiv); 45 FR 86459, 86467; December 31, 1980), the Secretary of the Interior approved New Mexico's CSMC Rule 80–1–20–171, which allowed stream fords as a general practice for Class III roads. The Secretary approved the rule with the understanding that New Mexico would include in all permits a stipulation that prohibited the use of drainage grade crossings by Class III roads any time there was water flowing through the crossing. New Mexico proposed to incorporate this requirement into its current regulations pertaining to ancillary roads at CSMC Rule 80–1–20–150(c).

Although CSMC Rule 80–1–20–171 no longer exists in New Mexico's program because of the District Court's remand of OSM's road classification system (*In Re: Permanent Surface Mining Regulation Litigation*, No, 79–1144, Slip Op. at 32–36, D.D.C. May 16, 1980), the rationale that Secretary used to approve the rule is pertinent to currently-proposed CSMC Rule 80–1–20–150(c). For the former rule, New Mexico had explained that the usage of Class III roads would be limited (Administrative Record No. NM–89; finding No. D.4(c)(xiv); 45 FR 86459, 86467; December 31, 1980).

Likewise, OSM, in promulgating its regulations for ancillary roads, stated that ancillary roads could be used only infrequently or for a special reason for a short time, such as to gain access into exploration areas, water treatment facilities, and maintenance areas (47 FR 16592, 16593, April 16, 1982). Therefore, the Class III roads addressed in former CSMC Rule 80–1–20–171 are analogous to the ancillary roads addressed in currently-proposed CSMC 80–1–20–150(c) to the extent that both would be used infrequently or for a short period of time.

When former CSMC Rule 80–1–20–171 was approved, the Secretary found that the rule provided a degree of protection consistent with section 515(b)(18) of SMCRA, which requires operators to refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water. For the same reasons, the Director finds that New Mexico's proposed CSMC Rule 80–1–20–150(c) pertaining to fords and low-water crossings of streams by ancillary roads, is consistent with section 515(b)(18) of SMCRA. The Director approves proposed CSMC Rule 80–1–20–150(c).

(d) CSMC Rule 80–1–20–150(e)(1)

New Mexico proposed at CSMC Rule 80–1–20–150(e)(1) to require an operator to obtain specific approval from the Director of MMD to locate any part of any road in the channel of an intermittent or perennial stream. By such approval, the Director assures that each such road location meets the requirements of the applicable hydrologic balance requirements at CSMC Rules 80–1–20–41 through 44 and 20–57.

The wording of New Mexico's proposed CSMC Rule 80–1–20–150(e)(1) is almost identical to the wording of the Federal regulations at 30 CFR 816.150(d)(1) and 817.150(d)(1). However, because of differences in the Federal and New Mexico definitions of "intermittent stream," New Mexico's proposed rule differs substantively from the corresponding Federal regulations with respect to applicability of the rule's requirements.

As discussed in finding No. 7(a), New Mexico's definition of "intermittent stream" differs from the Federal definition in that it does not include as intermittent those streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or from melting snow or

ice within the immediate watershed. This class of streams falls within New Mexico's definition of "ephemeral stream" at CSMC Rule 80-1-1.5. The effect of New Mexico's "intermittent stream" definition considered in conjunction with proposed CSMC Rule 80-1-20-150(e)(1) is that, contrary to the Federal requirements at 30 CFR 816.150(d)(1) and 817.150(d)(1), an operator would not have to obtain specific approval from the Director of MMD before locating a part of an ancillary or primary road in such streams.

Because proposed CSMC Rule 80-1-20-150(e)(1) does not afford the same protection to streams that drain watersheds 1 square mile or greater and that flow only in direct response to surface runoff from precipitation or melting snow or ice as is provided by the Federal regulations at 30 CFR 816.150(d)(1) and 817.150(d)(1) for such streams, the Director finds that proposed CSMC Rule 80-1-20-150(e)(1) is less effective than the corresponding Federal regulations. The Director approves CSMC Rule 80-1-20-150(e)(1) but requires New Mexico to revise CSMC Rule 80-1-20-150, or otherwise modify its program, to extend protection no less effective than the Federal standards to streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

21. CSMC Rules 80-1-20-151 (b)(2) and (c)(6), Primary Roads

New Mexico proposed at CSMC Rule 80-1-20-151(b)(2) to prohibit stream fords of perennial or intermittent streams by primary roads unless they are specifically approved by the Director of MMD as temporary routes during periods of road construction. New Mexico proposed at CSMC Rule 80-1-20-151(c)(6) specific requirements for crossings of perennial and intermittent streams by primary roads.

The wording of New Mexico's proposed CSMC Rules 80-1-20-151(b)(2) and (c)(6) is almost identical to the wording of the Federal regulations at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6). However, because of differences in the Federal and New Mexico definitions of "intermittent stream," New Mexico's proposed rule differs substantively from the corresponding Federal regulations with respect to applicability of the rule's requirements.

As discussed in findings Nos. 7(a) and 20(d), New Mexico's definition of "intermittent stream" differs from the Federal definition in that it does not include as intermittent those streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or from melting snow or ice within the immediate watershed. This class of streams falls within New Mexico's definition of "ephemeral stream" at CSMC Rule 80-1-1-5. The effect of New Mexico's "intermittent stream" definition considered in conjunction with proposed CSMC Rules 80-1-20-151(b)(2) and (c)(6) is that, contrary to the Federal requirements at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6), an operator (1) would not have to obtain specific approval from the Director of MMD before locating a primary road in such streams, and (2) would not have to build structures at primary road crossings of such streams.

Because proposed CSMC Rules 80-1-20-151(b)(2) and (c)(6) do not afford the same protection to streams that drain watersheds 1 square mile or greater and that flow only in direct response to surface runoff from precipitation or melting snow or ice as provided by the Federal regulations at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6) for such streams, the Director finds that proposed CSMC Rules 80-1-20-151(b)(2) and (c)(6) are less effective than the corresponding Federal regulations at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6). The Director approves CSMC Rules 80-1-20-151 (b)(2) and (c)(6), but requires New Mexico to revise CSMC Rule 80-1-20-151 or otherwise modify its program to extend protection no less effective than the Federal standards to streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

22. NMSA 69-25A-31(B), 2-acre Exemption

As originally enacted, section 528(2) of SMCRA exempted from the provisions of SMCRA coal extraction operations affecting 2 acres or less. However, on May 7, 1987, the President signed Public Law 100-34, which repealed this exemption and preempted any corresponding acreage-based exemptions included in State laws or regulations (52 FR 21228, June 4, 1987).

On March 5, 1992, the New Mexico Legislature amended NMSMA at 69-25A-31 by repealing paragraph (B), which had exempted from the provisions of the Act surface coal extraction operations affecting 2 acres or less. This legislation removed from the New Mexico Act the language preempted by Public Law 100-34. Removal of the acreage exemption from the New Mexico Act will prevent confusion on the part of the public, which may not be aware of the Federal preemption.

The Director finds that New Mexico's revision of section 69-25A-31 of NMSMA regarding the 2-acre exemption is no less stringent than SMCRA as amended by Public Law 100-34 and approves it.

IV. Summary and Disposition of Comments

1. Public Comments

OSM solicited public comments and provided opportunity for a public hearing on the proposed amendment. No comments were received from the public. Because no one requested an opportunity to testify at a public hearing, no hearing was held.

2. Agency Comments

Pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(11)(i), OSM solicited comments from the Administrator of the Environmental Protection Agency (EPA) and various other Federal agencies with an actual or potential interest in the New Mexico program.

A. The Forest Service, Soil Conservation Service, and EPA, Region 6 responded that they had no comments on the proposed amendment (Administrative Record Nos. NM-688, NM-690, and NM-691).

B. The Bureau of Land Management responded that it had no questions, comments, or suggestions on the materials presented (Administrative Record No. NM-693).

C. The U.S. Army Corps of Engineers responded that it found the changes to the New Mexico coal mining and reclamation regulatory program to be satisfactory (Administrative Record No. NM-694).

D. The Bureau of Mines (BOM) provided several substantive comments (Administrative Record No. NM-692).

First, BOM stated that the phrase "precipitation of a 6-hour precipitation event" at proposed CSMC Rule 80-1-20-93(d) should instead read "precipitation of a 10-year, 6-hour precipitation event." New Mexico proposed at CSMC Rule 80-1-20-93(d) that the spillway of an impounding structure constructed of coal processing waste shall have sufficient capacity to safely pass and control "the probable maximum precipitation of a 6-hour precipitation event." The proposed design event is identical to the Federal

design event specified at 30 CFR 816.84(b)(2) and 817.84(b)(2). A structure designed to pass and control the probable maximum precipitation of a 6-hour precipitation event provides a greater measure of protection than would a structure designed to pass and control the 10-year, 6-hour precipitation event. Therefore, the Director does not require New Mexico to revise this rule in response to this comment.

Second, BOM questioned whether proposed CSMC Rule 80-1-20-97(b) would require an operator to conduct studies prior to mining and to continue those studies through the life of the operation, and stated that if so, there should be guidelines as to how the activities are conducted and by whom. Proposed CSMC Rule 80-1-20-97(b) requires the operator to report to the Director of MMD any State- or Federally-listed endangered or threatened species within the permit area "of which the operator becomes aware." Operator awareness of existing endangered and threatened species does not imply any research other than what is already required for compliance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). No additional studies are required by the proposed CSMC Rule 80-1-20-97(b). The requirements of proposed CSMC Rule 80-1-20-97(b) are consistent with the Federal requirements at 30 CFR 816.97(b) and 817.97(b) with respect to operator awareness of threatened and endangered species. Therefore, the Director does not require New Mexico to revise this rule in response to this comment. However, for other reasons discussed in finding No. 15, the Director is not approving proposed CSMC Rule 80-1-20-97(b).

Third, BOM commented that proposed CSMC Rule 80-1-30-11(b) appears to allow a mine to operate without a valid permit if the area mined is part of or contiguous to a valid permit. BOM further stated that when a complete application has been submitted, issuance of a permit or permit extension should not be delayed for administrative reasons.

Proposed CSMC Rule 80-1-30-11(b) establishes, for the purpose of issuing cessation orders, conditions under which the conduct of surface coal mining operations without a valid permit do not constitute significant imminent environmental harm to land, air, or water resources. On April 5, 1989, OSM published a final rule **Federal Register** notice promulgating Federal regulations at 30 CFR parts 701, 704, 750, 773, 774, 800, and 843 pertaining to permitting requirements for reclamation operations (54 FR 13814). The regulations were adopted to implement a consistent policy with respect to permit requirements when reclamation activities would be conducted where no coal extraction or other surface coal mining operations specified in section 701(28) of SMCRA would be taking place. In that rulemaking, the Federal regulations at 30 CFR 843.11(a)(2) concerning issuance of cessation orders were amended to clarify OSM's interpretation of SMCRA requirements concerning a permit to conduct reclamation operations where no coal extraction is taking place, and removed the requirement to renew a permit solely to conduct reclamation activities (54 FR 13814, 13819, April 5, 1989). In this proposed amendment, New Mexico has incorporated requirements at CSMC Rule 80-1-30-11(b) that are no less effective than the requirements of the corresponding Federal regulations at 30 CFR 843.11(a)(2) concerning the issuance of cessation orders. Therefore, the Director does not require New Mexico to revise its rules in response to BOM's comment.

Fourth, BOM stated that, as proposed at CSMC Rule 80-1-30-11(l), 60 days is too much time to allow for notifying a principal that a cessation order has been issued. BOM stated that "[s]omething as serious as a cessation order should not take more than 7 to 10 days to notify anyone by registered mail anywhere in the U.S. Research of ownership should not cause a problem, all ownership agreements are required notices for the permit."

New Mexico's proposed requirements at CSMC Rule 80-1-30-11(l) are substantively identical to the corresponding Federal regulations at 30 CFR 843.11(g). The primary responsibility for notifying all owners and controllers of a surface mining operation that a cessation order has been issued lies with the officials of the surface mining operation who received the cessation order and not with the regulatory authority. New Mexico's reason for notification is regulatory in nature and threefold in purpose as detailed in the preamble to the corresponding Federal regulations at 30 CFR 843.11 (54 FR 8982, 8986, March 2, 1989). First, notification to all the owners and controllers will ensure that they are aware of the violation, and that unless the violation is abated their names will be linked to the violation in the applicant/violator system. Second, where the person notified of the violation is no longer linked with the violator, notification will allow the person to immediately notify the regulatory authority that a link no longer exists. Third, where the violator is a corporation, the notification to individual owners and controllers will also provide a basis for the assessment of an individual civil penalty under section 22(f) of New Mexico's Surface Mining Act and CSMC Rules 80-1-Part 31.

In most cases, notification would occur in less than 60 days. Notification would be attempted as soon as the permittee submits updated or corrected information as required at CSMC Rule 80-1-7-30(c) or submits in its entirety the information required at CSMC Rule 80-1-7-13(c). However, CSMC Rule 80-1-11-29(d) allows the permittee up to 30 days after a cessation order is issued to supply this information. If updated information is not received, New Mexico would send the notice to the persons currently in its records as owners or controllers. The additional 30 days allowed at proposed CSMC Rule 80-1-30-11(l) would provide New Mexico with time to find an owner or controller should the current information prove incorrect. For these reasons, the Director does not require New Mexico to take action in response to this comment.

Fifth, BOM stated that the requirements of proposed CSMC Rules 80-1-20-121 and 124 should apply to renewable resource lands in addition to structures and facilities. OSM agrees that an operator must correct any material damage to surface lands resulting from subsidence. The Federal requirements at 30 CFR 817.121(c)(1) require an operator to "[c]orrect any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence."

New Mexico's proposed CSMC Rule 80-1-20-121(a) only requires an operator to prevent subsidence from causing material damage to structures and facilities to the extent technologically and economically feasible. As discussed in finding No. 18, the Director does not approve proposed CSMC Rule 80-1-20-121(a) to the extent that it limits "to structures and facilities" an operator's responsibility to prevent subsidence-related material damage.

BOM also questioned whether, in general, an abandoned structure owned by a mining company has to be maintained and subsidence beneath it prevented. OSM has determined that this concern is outside the scope of the present rulemaking because it does not relate to a rule that New Mexico has

proposed for revision in this amendment. However, BOM is advised that OSM has proposed revisions to the Federal regulations at parts 701, 784, and 817 pertaining to underground coal mining and subsidence-caused damage to structures and facilities (58 FR 50174, September 24, 1993). Upon promulgation of these proposed revisions, the Director, in accordance with 30 CFR 732.17(e), will require the States to revise their corresponding regulations to be no less effective than the revised Federal regulations. BOM may wish to express its concerns regarding a mining company's obligation to maintain and prevent subsidence beneath an abandoned structure that it owns by commenting on the proposed Federal regulations.

E. The Mine Safety and Health Administration (MSHA) responded with three comments (Administrative Record No. NM-695).

First, MSHA stated that proposed CSMC Rule 80-1-9-25(c) would require plans developed in accordance with 30 CFR 77.216 to simply be "submitted" to the Director of MSHA without specifying how many copies of the plans must be submitted. MSHA stated that 90 CFR 77.216 specifically requires such plans to be submitted in triplicate.

The intent of New Mexico's proposed CSMC Rule 80-1-9-25(c) is to require that any plans prepared and submitted to MSHA in accordance with 30 CFR 77.216 must also be submitted to the Director of MMD as part of the permit application. The proposed rule also requires each plan for permanent and temporary impoundments to comply with all MSHA requirements at 30 CFR 77.216-1 and 77.216-2. Thus, the applicant is required to submit these plans to MSHA in the quantity specified at 30 CFR 77.216-1 and 77.216-2. Therefore, the Director does not require New Mexico to revise its rule in response to MSHA's comment.

Second, MSHA questioned whether the requirements of proposed CSMC Rule 80-1-20-93(a)(1) apply only to dams and embankments constructed of coal processing waste that do not meet the criteria of 30 CFR 77.216(a) or to all dams and embankments constructed of coal processing waste. MSHA also commented that the U.S. Soil Conservation Service publication referenced at proposed CSMC Rule 80-1-20-93(a)(1) (Practice Standard 378, "Ponds," October 1978) is "outdated."

New Mexico proposed at CSMC Rule 80-1-20-93(a)(1) minimum freeboard and maximum water elevation design requirements for all dams and embankments constructed of or intended to impound coal processing waste. As discussed in finding No. 14(a), the Federal regulations do not specify minimum freeboard or maximum water surface elevation requirements for impoundments, or specific procedures for determining the maximum water surface elevation and adequate freeboard. Thus, at CSMC Rule 80-1-20-93(a)(1), New Mexico has proposed provisions for impoundment spillway design not required by the Federal regulations. The inclusion of additional requirements does not, of itself, render the proposed rule less effective than the Federal regulations. However, as also discussed in finding No. 14(a), proposed CSMC Rule 80-1-20-93(a)(1) inappropriately allows SCS Practice Standard 378 to be used for the determination of maximum water surface elevations of the largest of dams and embankments that meet the size criteria of 30 CFR 77.216(a) and without regard to potential hazards inherent in the location of a dam or embankment. Such use is clearly outside the intended scope of application of Practice Standard 378. Therefore, the Director is requiring New Mexico to further revise CSMC Rule 80-1-20-93(a)(1) to limit the use of SCS Practice Standard 378 to dams and embankments constructed of coal processing waste or intended to impound such waste that are within the Practice's stated scope of applicability with regard to structure size and the hazard potential inherent in the structure's location. Also, because the Federal regulations do not specify minimum freeboard or maximum water surface elevation requirements for impoundments or specific procedures for determining such values, New Mexico's reference to an older SCS technical document, Practice Standard 378, dated October 1978, is not inconsistent with the Federal requirements.

Third, MSHA stated, with regard to proposed CSMC Rule 80-1-20-93(d), that "[a]lthough not specified in the regulations, MSHA's Design Guidelines for design storm requirements are based upon hazard classification in the event of failure and size of structure with some variation for short-time unavoidable construction condition. The minimum design storm under any conditions is the Probable Maximum Flood (PMF) for high hazard sites. It is anticipated that there could be some conflict between MSHA's guidelines and (d) in the amendment."

On September 26, 1993, the Director published a final rule **Federal Register** notice promulgating Federal regulations at 30 CFR parts 816 and 817 pertaining to performance standards for refuse piles and impounding structures constructed of or intended to impound coal mine waste (48 FR 44006, 44015-44025. These regulations were amended on October 27, 1988 (53 FR 43606). The regulations were adopted to supplement as well as reduce duplication of MSHA's regulations. MSHA standards that satisfy requirements under SMCRA are cross-referenced. Such cross-referenced standards are enforceable under SMCRA by the regulatory authority and become requirements of the surface coal mining regulatory program as well as MSHA's program for coal mine health and safety. In this proposed amendment, New Mexico has incorporated requirements at CSMC Rule 80-1-20-93(d) that are no less effective than the requirements of these corresponding Federal regulations concerning the design, construction, and maintenance of spillways for impounding structures constructed of or intended to impound coal mine waste. Therefore, the Director does not (1) anticipate any conflict between proposed CSMC Rule 80-1-20-93(d) and MSHA's design guidelines or (2) require New Mexico to revise its rules in response to MSHA's comment.

3. State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation (ACHP) Comments

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments from the SHPO and ACHP for all amendments that may have an effect on historic properties. By letters dated September 8, 1992, the Director solicited comments from these offices (Administrative Record No. NM-687). ACHP did not respond.

The SHPO responded and expressed concern about the provisions for the coal exploration performance standards proposed at CSMC Rule 80-1-19-15 (Administrative Record No. NM-696). The SHPO stated that coal exploration has the potential for adverse effect on properties that are eligible for listing or are listed in the National Register of Historic Places and that coal exploration is one area of the coal mining regulatory process that does not adequately conform to the requirements of section 106 of the National Historic Preservation Act. Further, the SHPO expressed disappointment that the proposed changes in CSMC Rule 80-1-19-15 do not address the need for more explicit provisions on historic properties, and expressed the opinion that the exploration sections of the New Mexico's approved program will allow the destruction of historic properties without proper identification and evaluation consistent with section 106

of the National Historic Preservation Act.

The Director acknowledges the SHPO's concerns and New Mexico has been notified of these concerns by this notice and by their inclusion in the administrative record. Section 503(a) of SMCRA provides that an approved State program must carry out the provisions of SMCRA and meet its purposes through a State law that provides for the regulation of surface mining and reclamation operations in accordance with the requirements of SMCRA and through State regulations consistent with regulations issued by the Secretary pursuant to SMCRA. The Federal regulations at 30 CFR 730.5 define the terms underlined above as meaning that (a) with regard to SMCRA, the State laws and regulations are no less stringent than, meet the minimum requirements of, and include all applicable provisions of SMCRA and (b) with regard to the Secretary's regulations, the State laws and regulations are no less effective than the Secretary's regulations in meeting the requirements of SMCRA.

Further, the Federal regulations at 30 CFR 730.11(b) provide that any State law or regulation that provides for more stringent land use and environmental controls and regulations of coal exploration and surface coal mining and reclamation operations than do the provisions of SMCRA and 30 CFR chapter VII or that provides for controls and regulations for which no provision is contained in SMCRA or 30 CFR chapter VII shall not be construed to be inconsistent with SMCRA or 30 CFR chapter VII. Thus, in order to approve proposed revisions to a State regulatory program, OSM must determine that the revisions are no less effective than the corresponding Federal requirements or are no less stringent than the provisions of SMCRA. However, OSM has no authority to require a State law or regulation to be more stringent than the requirements of SMCRA or 30 CFR chapter VII.

On September 8, 1983, the Director published a final rule **Federal Register** notice promulgating Federal regulations at 30 CFR 815.15 pertaining to performance standards for coal exploration (48 FR 40636). These regulations were amended on November 8, 1988 (53 FR 45211). New Mexico has incorporated in proposed CSMC Rule 80–1–19–15(c) requirements for its rules that are no less effective than the requirements of these corresponding Federal regulations concerning the protection of historic properties during the conduct of coal exploration activities. Therefore, the Director is not requiring New Mexico to further revise its rules in response to the SHPO's comments. However, as discussed in finding No. 12, the Director does require New Mexico to further revise its program to require that "other transportation facilities" used for coal exploration activities comply with CSMC Rules 80–1–20–150 (b) through (g).

4. EPA Concurrence

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

None of the changes that New Mexico proposes to its rules pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence on the proposed amendment.

V. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and required amendments identified below, the proposed amendment as submitted by New Mexico on January 16, 1991, and as revised by it on February 6, March 26, July 22, 1991, and September 1, 1992.

As discussed respectively in finding Nos. 8(b) and (c), 10(a), 13, 14(a), 15, 18, and 19, the Director does not approve (1) CSMC Rule 80–1–9–39(c) and (d)(2), subsidence control; (2) CSMC Rules 80–1–11–20(b)(1) and (b)(3) to the extent that they reference CSMC Rule 80–1–7–14 and do not incorporate the violations review criteria at CSMC Rule 80–1–11–20(b)(1)(iii); (3) the phrase "unless these structures have been reclaimed according to Section 9–25 and positive drainage with no impoundment of water has been achieved" at CSMC Rules 80–1–20–91(c) and 20–93(e); (4) CSMC Rule 80–1–20–93(a)(1), freeboard and water-surface elevation design; (5) CSMC Rule 80–1–20–97(b) and (c), protection of threatened and endangered species, (6) CSMC Rule 80–1–20–117(d)(3)(i) to the extent that it allows the permittee to use an 80-percent statistical confidence interval; (7) the phrase "to structures and facilities" at CSMC Rule 80–1–20–121(a); and (8) CSMC Rule 80–1–20–124, subsidence control.

As discussed respectively in finding Nos. 9(a) and 10(b), the Director defers action on proposed CSMC Rules 80–1–11–17(c) and 11–20(b)(1)(ii) to the extent that these subsections provide for a presumption that a notice of violation has been or is being corrected in the absence of a failure-to-abate cessation order. In response to litigation, the Secretary has indicated an intention to reconsider this presumption issue in the corresponding Federal regulations at 30 CFR 773.15(b)(1) and 773.20(b)(1)(ii).

As discussed respectively in finding Nos. 4, 7(a), 8(b), and (c), 9(b) and (c), 10(a), 11, 12, 16(a), (b), and (e), 17(a) and (c), 19, 20(b) and (d), and 21, the Director requires New Mexico to submit regulatory program amendments regarding (1) CSMC Rule 80–1–7–14(c), compliance information; (2) CSMC Rule 80–1–9–37(c), transportation facilities; (3) CSMC Rule 80–1–9–39(c) and (d)(2), subsidence control; (4) CSMC Rule 80–1–11–17(c) and (d) and 11–19(i), review of permit applications; (5) CSMC Rule 80–1–11–20(b)(1) and (b)(3), improvidently issued permits; (6) CSMC Rule 80–1–11–29(d), permit conditions; (7) CSMC Rule 80–1–19–15(c), performance standards for roads used in coal exploration; (8) CSMC Rule 80–1–20–116(a), (b)(1), and (b)(7), revegetation; (9) CSMC Rule 80–1–20–117(a), (b)(1), (b)(2), (c), (d)(2), and (d)(3)(i), revegetation; (10) CSMC Rule 80–1–20–124, subsidence control; (11) CSMC Rule 80–1–20–150(b)(9) and (e)(1), roads; and (13) CSMC Rule 80–1–20–151 (b)(2) and (c)(6), primary roads.

Except as noted, the Director is approving the proposed rules with the provision that they be fully promulgated in the identical form as submitted to and approved by OSM. To implement this decision, the Director amends the Federal regulations at 30 CFR part 931 codifying decisions concerning the New Mexico program. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the New Mexico program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent

implementing policies, directives and other materials, and will require the enforcement by New Mexico of only such provisions.

VI. Procedural Determinations

National Environmental Policy Act

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

Executive Order 12866

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

Regulatory Flexibility Act

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 9, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T, part 931, of the Code of Federal Regulations is amended as set forth below:

PART 931—NEW MEXICO

1. The authority citation for part 931 continues to read as follows:

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

2. Section 931.15 is amended by adding a new paragraph (r) to read as follows:

§ 931.15 Approval of amendments to State regulatory program.

* * * * *

(r) With the exception of CSMC Rules 80–1–9–39(c) and (d)(2), subsidence control; CSMC Rules 80–1–11–17(c) and 11–20(b)(1)(ii) to the extent that they allow the Director of MMD to presume, in the absence of a failure-to-abate cessation order, that a notice of violation has been or is being corrected; CSMC Rules 80–1–11–20(b)(1) and (b)(3) to the extent that they reference CSMC Rules 80–1–7–14 and do not incorporate the violations review criteria at CSMC Rule 80–1–11–20(b)(1)(iii); the phrase "unless these structures have been reclaimed according to section 9–25 and positive drainage with no impoundment of water has been achieved" at CSMC Rules 80–1–20–91(c) and 20–93(e); CSMC Rule 80–1–20–93(a)(1), freeboard and water-surface elevation design; CSMC Rule 80–1–20–97(b) and (c), protection of threatened and endangered species; CSMC Rule 80–1–20–117(d)(3)(i) to the extent that it allows the permittee to use an 80-percent statistical confidence interval; the phrase "to structures and facilities" at CSMC Rule 80–1–20–121(a); and CSMC Rule 80–1–20–124, subsidence control, the revisions to the New Mexico Coal Surface Mining Commission (CSMC) rules and to the New Mexico Statutes Annotated (NMSA), as submitted on January 16, 1991, and as revised on February 6, March 26, and July 22, 1991, and September 1, 1992, are approved effective December 17, 1993. (The Director is deferring decision on CSMC Rules 80–1–11–17(c) and 11–20(b)(1)(ii) to the extent that they allow the Director of MMD to presume, in the absence of a failure-to-abate cessation order, that a notice of violation has been or is being corrected.) Revisions to the following rules are approved:

CSMC Rules 80–1–1–5, definition of "owned or controlled and owns and controls."

CSMC Rule 80–1–4–15(b)(2), designation of lands unsuitable for coal mining.

CSMC Rule 80–1–7–13(a) through (j), identification of interests.

CSMC Rule 80–1–7–14(a) through (d), compliance information.

CSMC Rule 80–1–9–21(c), protection of the hydrologic balance.

CSMC Rule 80–1–9–25(b), (c), and (e), reclamation plan relative to ponds, impoundments, banks, dams, and embankments.

CSMC Rule 80–1–9–37(a) through (e), transportation facilities.

CSMC Rule 80–1–9–39(b), subsidence control.

CSMC Rule 80–1–9–40, support facilities.

CSMC Rule 80–1–11–17(c), (c)(2), (c)(3), (d), and (e), review of permit applications.

CSMC Rule 80–1–11–19(i), criteria for permit approval or denial.

CSMC Rule 80–1–11–20(a), (b)(1), (b)(1)(i), (b)(1)(iii), (b)(2), (b)(2)(i), (b)(2)(ii), (b)(3), (c), and (c)(1) through (c)(4), improvidently issued permits.

CSMC Rule 80–1–11–24(a), (b), and (c), rescission procedures for improvidently issued permits.

CSMC Rule 80–1–11–29(d), conditions of permits.

CSMC Rule 80–1–19–15(c)(2) through (c)(4), performance standards for coal exploration.

CSMC Rule 80–1–19–17(a) and (b), requirements for a permit.

CSMC Rule 80–1–20–91(c), coal processing waste dams and embankments;

CSMC Rule 80–1–20–93(a), (c), (d), and (e), coal processing waste impounding structures.

CSMC Rule 80–1–20–116(a), (b)(1), (b)(3), (b)(6), (b)(7), and the deletion of (d) through (d)(3), revegetation.

CSMC Rule 80–1–20–117(a), (b), (c), (d), (d)(1), (d)(2), and (d)(3)(i), revegetation.

CSMC Rule 80–1–20–121(a), subsidence control.

CSMC Rule 80–1–20–124, subsidence control.

CSMC Rule 80–1–20–150(a)(2)(i) and (iii), (b)(9), (c), (e)(1), and (g)(5) through (g)(7), general requirements for roads.

CSMC Rule 80–1–20–151(a), (b)(2), (c)(1), and (c)(6), primary roads.

CSMC Rule 80–1–30–11(b) and (l), cessation orders.

The deletion of the statutory provision at NMSA 69–25A–31 concerning the 2-acre exemption is also approved.

3. Section 931.16 is amended by adding paragraphs (d) through (v) to read as follows:

§ 931.16 Required program amendments.

* * * * *

(d) By February 15, 1994, New Mexico shall submit to OSM a proposed revision for CSMC Rule 80–1–7–14(c) or otherwise modify its program to require an application to additionally include information on violations received pursuant to SMCRA, its implementing regulations, and to any State or Federal law, rule or regulation enacted or promulgated pursuant to SMCRA.

(e) By February 15, 1994, New Mexico shall submit to OSM a proposed revision to CSMC Rule 80–1–9–37(c), or to its definition of "intermittent stream" at CSMC Rule 80–1–1–5, or otherwise amend its program to provide protection no less effective than the Federal provisions at 30 CFR 780.37(a)(2), (a)(3), and (a)(5) and 784.24(a)(2), (a)(3), and (a)(5) for streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

(f) By February 15, 1994, New Mexico shall submit to OSM a proposed revision to CSMC Rule 80–1–9–39(c) to require that a permit application include a description of the measures to be taken to mitigate or remedy subsidence-related material damage regardless of the liability, or lack thereof, under other State laws to the land and incurred after October 24, 1992, by occupied residential dwellings, structures related thereto, and noncommercial buildings.

(g) By February 15, 1994, New Mexico shall submit to OSM a proposed revision to CSMC Rule 80–1–9–39(d) to remove from its program the exception allowed at paragraph (d)(2) to the requirements of CSMC Rule 80–1–9–39(d)

(h) By February 15, 1994, New Mexico shall submit to OSM a proposed revision to CSMC Rule 80–1–11–17(c) or otherwise modify its program to:

(1) Require, as a basis of permit denial, consideration of delinquent civil penalties issued pursuant to all the derivative State and Federal programs encompassed by the Federal phrase "section 518 of the Act," and

(2) Prohibit issuance of a permit if an applicant or any person who owns or controls an applicant is currently in violation of SMCRA, the Federal regulations at 30 CFR chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved programs other than the New Mexico program.

(i) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rules 80–1–11–17(d) and 11–19(i), or otherwise modify its program to require the Director of MMD, when making a determination of whether a pattern of willful violations exists, to also consider violations received by an applicant, anyone who owns or controls the applicant, or the operator named in the application, pursuant to SMCRA, the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved State programs other than the New Mexico program.

(j) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rules 80–1–11–20(b)(1) and (b)(3) to reference CSMC Rule 80–1–11–20(b)(1)(iii) instead of CSMC Rule 80–1–7–14.

(k) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–11–29(d), or otherwise amend its program to require the permittee, when a Federal cessation order has been issued in accordance with 30 CFR 843.11, to update the ownership and control information required at CSMC Rules 80–1–11–29(d)(1), (d)(2), and (d)(3) and submit it to the Director of MMD, or if there has been no change in the required information, to so notify the Director of MMD in writing.

(l) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–19–15(c) or otherwise amend its program to require that "other transportation facilities" used for coal exploration activities meet the requirements of CSMC Rules 80–1–20–150(b) through (g) and 20–181(a) and (b).

(m) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–116(a) to:

(1) Require that revegetation success be based on the general revegetation requirements at CSMC Rules 80–1–20–111 and 112,

(2) Specifically identify the technical guidance procedures published by USDA that may be used, and

(3) Require that all standards for success and measuring techniques be approved by the Director of OSM for inclusion in New Mexico's approved regulatory program.

(n) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–116(b)(1), or otherwise amend its program to require that:

(1) All revegetation success standards and measuring techniques be approved by the Director of OSM as well as the Director of MMD, and

(2) The period of extended responsibility begin after the last year of augmented seeding, fertilizing, irrigation, or other work.

(o) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–116(b)(7) to provide ground cover requirements for lands to be developed for recreation and shelterbelts.

(p) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rules 80–1–20–117(a) and (b) or otherwise amend its program to:

(1) Provide revegetation success standards for lands developed as fish or wildlife habitat, recreation areas, or shelterbelts, and

(2) Require that the trees and shrubs used in determining stocking success and adequacy of plant arrangement shall have utility for the approved postmining land use.

(q) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–117(c) or otherwise amend its program to:

(1) Clarify at subparagraph (c)(1) whether the stocking rate for commercial forest land will be determined by the State Forester on a permit-specific or program-wide basis,

(2) Reference at subparagraph (c)(3) the correct rules for determining the number of trees, shrubs, and ground-cover plants on commercial forest land, and

(3) Reference, at subparagraph (c)(4), CSMC Rule 80–1–20–117(d)(2) for the appropriate bond release success standards for stocking and ground cover.

(r) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80–1–20–117(d) to:

(1) Reference at CSMC Rule 80–1–20–117(d)(2) and (d)(3)(i) the revegetation success standards and the extended period of responsibility for revegetation success at CSMC Rule 80–1–20–116(b), and

(2) Require at CSMC Rule 80–1–20–117(d)(3)(i) that sampling techniques for measuring revegetation success shall

use a 90-percent statistical confidence interval.

(s) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80-1-20-124 to require that an operator:

(1) Repair or compensate for subsidence-related material damage to structures and facilities and

(2) Correct, by restoring the land to the extent technologically and economically feasible, any material damage resulting from subsidence caused to surface lands,

(3) Require an operator to either repair or compensate the owner in full regardless of the extent of operator liability under State law for any subsidence-related damage occurring after October 24, 1992, to occupied residential dwellings, structures related thereto, and noncommercial buildings, and

(4) Remove the inconsistency with proposed CSMC Rule 80-1-9-39(c) with regard to limiting to the extent required under State law, an operator's obligation to remedy subsidence-related material damage to structures and facilities.

(t) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rule 80-1-20-150(b)(9) to reference subparagraph (d) of CSMC Rule 80-1-20-150 instead of subparagraph (c).

(u) By February 15, 1994, New Mexico shall submit to OSM proposed revisions to CSMC Rules 80-1-20-150(e)(1), or to its definition of "intermittent stream" at CSMC Rule 80-1-1-5, or otherwise amend its program to provide protection no less effective than the Federal provisions at 30 CFR 816.150(d)(1) and 817.150(d)(1) for streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

(v) By February 15, 1994, New Mexico shall submit to OSM a proposed revision to CSMC Rules 80-1-20-151(b)(2) and (c)(6), or to its definition of "intermittent stream" at CSMC Rule 80-1-1-5, or otherwise amend its program to provide protection no less effective than the Federal provisions at 30 CFR 816.151(c)(2) and (d)(6) and 817.151(c)(2) and (d)(6) for streams that drain watersheds 1 square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE49

Reservists Education: Procedural Due Process and the Montgomery GI Bill—Selected Reserve; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulations (RIN 2900-AE49) which were published on Tuesday, October 5, 1993 (58 FR 51781). The regulations provided procedural due process to reservists receiving educational assistance under the Montgomery GI Bill—Selected Reserve.

EFFECTIVE DATE: October 5, 1993.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-233-2092.

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of this correction provided procedural due process for reservists receiving educational assistance under the Montgomery GI Bill—Selected Reserve. This was done by liberalizing the time limits for filing a claim for this assistance and by liberalizing the time limits for submitting a description of the mitigating circumstances surrounding a withdrawal or receipt of a nonpunitive grade.

Need for Correction

Two final regulation documents, 2900-AE49 and 2900-AF78 (58 FR 51783), were both published in the **Federal Register** of October 5, 1993. Both documents contained an amendment to § 21.7639(b)(1)(ii). Since the documents indicated that the amendment contained in 2900-AE49 had a later effective date than that contained in 2900-AF78, the amendment in 2900-AE49 would remain in effect from October 5, 1993. However, that amendment when taken with the amendment to § 21.7639(b)(1)(i) does not make sense. This has caused confusion among readers of the regulations. Consequently, the language of § 21.7639(b)(1)(ii) should include the language for that paragraph contained in 2900-AF79; this correction does that.

Correction of Publication

Accordingly, the publication on October 5, 1993, of the final regulations which were the subject of FR Doc. 93-24375 is corrected as follows.

Paragraph 1. On page 51781 in the third column, in § 21.7639, paragraph (b)(1)(ii) is corrected to read as follows.

§ 21.7639 Conditions which result in reduced rates.

* * * * *

(ii) Both of the following exist.

(A) There are mitigating circumstances, and

(B) The reservist submits a description of the circumstances in writing to VA either within one year from the date VA notifies the reservist that he or she must submit the mitigating circumstances, or at a later date if the veteran or servicemember is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

* * * * *

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3471, 3680(a), 5101, 5113; Pub. L. 102-127) (Aug. 1, 1990))

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Dated: December 10, 1993.

Marjorie M. Leandri,

Chief, Records, Reports, and Regulations Division.

[FR Doc. 93-30812 Filed 12-16-93; 8:45 am]
BILLING CODE 8320-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT-9-1-6153; RI-5-1-6152; A-1-FRL-4807-4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut and Rhode Island; Stage II Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving Section 22a-174-30 of the Connecticut Regulations for the Abatement of Air Pollution entitled "Dispensing of Gasoline/Stage II Vapor Recovery" as a revision to the Connecticut State

Implementation Plan (SIP) for ozone. In addition, EPA is approving amendments to Rhode Island's Regulation No. 11 entitled "Petroleum Liquids Marketing and Storage" as a revision to the Rhode Island SIP. On January 12, 1993, Connecticut and Rhode Island submitted these regulations to EPA in response to the Clean Air Act, as amended in 1990, which requires all ozone nonattainment areas classified as moderate or above to adopt regulations which require owners and operators of gasoline dispensing facilities to install and operate Stage II vapor recovery equipment.

EFFECTIVE DATE: This rule will become effective on January 18, 1994.

ADDRESSES: Copies of the States' submittals and EPA's technical support documents are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA. In addition, Connecticut's submittal is available at the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630 and Rhode Island's submittal is available at Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565–3166.

SUPPLEMENTARY INFORMATION: On September 10, 1993 (58 FR 47707), EPA published a Notice of Proposed Rulemaking (NPR) for the States of Connecticut and Rhode Island. The NPR proposed approval of the Stage II vapor recovery regulations adopted by these states. No public comments were received on the NPR.

Under section 182(b)(3) of the amended Act, moderate and above ozone nonattainment areas were required to submit Stage II vapor recovery rules by November 15, 1992. In addition, section 184(b)(2) of the amended Act requires all areas that are located in an ozone transport region (OTR) to adopt Stage II regulations in accordance with section 182(b)(3) or measures that EPA has identified as capable of achieving equivalent reductions to section 182(b)(3) Stage II controls. These measures must be submitted within 1 year of EPA's completion of its Stage II comparability study.

The entire State of Connecticut is designated nonattainment for ozone and is classified as serious, except for the south western portion of the State which is classified as severe. The entire State of Rhode Island is also designated nonattainment for ozone and is classified as serious. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.307 and 81.340. In addition, both Connecticut and Rhode Island are located in the northeast ozone transport region. See CAA section 184(a). Thus, these States are required to adopt Stage II vapor recovery rules in accordance with sections 182(b)(3) and 184(b)(2) of the amended Act.

Under section 182(b)(3), moderate and above ozone nonattainment areas are required to adopt regulations requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. Section 182 (b)(3)(A) of the Act specifies that Stage II controls must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), any facility that dispenses more than 50,000 gallons of gasoline per month.

Also under section 182(b)(3), EPA was required to issue guidance as to the effectiveness of Stage II systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement.[1] In addition, on April 16, 1992, EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498). The guidance documents and the General Preamble interpret the Stage II statutory requirement and indicate what EPA believes a State submittal needs to include to meet that requirement.

Connecticut's Stage II Regulations

On January 12, 1993, the Connecticut Department of Environmental Protection submitted to EPA Section 22a–174–30 entitled "Dispensing of Gasoline/Stage II Vapor Recovery." This regulation prohibits the transfer of gasoline into a motor vehicle fuel tank at a dispensing facility unless a properly operating Stage II vapor recovery system is used for such transfer. This prohibition applies as follows: (1) After November 30, 1992, to any facility which begins actual construction of a stationary storage tank after November 30, 1992 and which has a throughput of 10,000 gallons or more during any calendar month, (2) after May 15, 1993, to any facility for which construction commenced between November 15, 1990 and November 30, 1992 and which has a throughput of 10,000 gallons or more during any one month, (3) after November 15, 1993, to any facility for which construction commenced on or before November 15, 1990 and which has a monthly throughput of 10,000 gallons or more calculated based on the highest throughput in a calendar month during the two year period between November 30, 1990 and November 30, 1992, and (4) after November 15, 1994, to any facility for which construction commenced on or before November 15, 1990 and which has a monthly throughput of 10,000 gallons or more during any calendar month after November 30, 1992. Connecticut's regulation does not contain a separate applicability cut-off or compliance schedule for ISBMs.

The EPA has reviewed Connecticut's submittal against the statutory requirements and for consistency with EPA guidance. By this action, EPA is approving Connecticut's submittal as meeting the requirements of sections 182(b)(3) and 184(b)(2). The rationale for EPA's proposed approval is explained in the NPR (58 FR 47707) and will not be restated here. Connecticut's regulation and EPA's evaluation are detailed in a memorandum, dated April 15, 1993, entitled "Technical Support Document—Connecticut—Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

Rhode Island's Stage II Regulations

On January 12, 1993, the Rhode Island Department of Environmental Management (DEM) submitted to EPA Regulation No. 11, entitled "Petroleum Liquids Marketing and Storage," which had been recently amended to include new Stage II vapor recovery requirements in section 10 of the rule. Section 10 requires that all gasoline dispensing facilities constructed or substantially modified after November 15, 1992, as well as all other facilities which have or have had a monthly throughput of greater than 10,000 gallons in any one month after November 1991, install and operate Stage II vapor recovery controls. Rhode Island's regulation does not contain a separate Stage II applicability cut-off or compliance schedule for ISBMs.

The EPA has reviewed Rhode Island's submittal against the statutory requirements and for consistency with EPA guidance. By today's action, EPA is proposing to approve Rhode Island's

[1] These two documents are entitled "Technical Guidance-Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA–450/3–91–022) and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs."

submittal as meeting the requirements of sections 182(b)(3) and 184(b)(2). The rationale for EPA's proposed approval is explained in the NPR (58 FR 47707) and will not be restated here. Rhode Island's regulation and EPA's evaluation are detailed in a memorandum, dated April 7, 1993, entitled "Technical Support Document—Rhode Island—Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

Final Action

Because EPA believes that the State of Connecticut has adopted a Stage II regulation in accordance with sections 182(b)(3) and 184(b)(2) of the Act, as interpreted in EPA's guidance, EPA is approving Section 22a-174-30 of the Connecticut Regulations for the Abatement of Air Pollution, entitled "Dispensing of Gasoline/Stage II Vapor Recovery," as meeting the requirements of sections 182(b)(3) and 184(b)(2). In addition, because EPA believes that the State of Rhode Island has also adopted a Stage II regulation in accordance with sections 182(b)(3) and 184(b)(2) of the Act, as interpreted in EPA's guidance, EPA is approving amendments to Rhode Island's Regulation No. 11, entitled "Petroleum Liquids Marketing and Storage," as meeting the requirements of sections 182(b)(3) and 184(b)(2).

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

As noted elsewhere in this action, EPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 2 to Table 3 under the processing procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214) and revisions to these procedures issued on October 4, 1993 in an EPA memorandum entitled "Changes to State Implementation Plan (SIP) Tables."

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

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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

Under 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 February 15, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the States of Connecticut and Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 5, 1993.

Paul Keough,

Acting Regional Administrator, Region I

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(62) to read as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(62) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 12, 1993.

(i) Incorporation by reference

(A) Letter from the Connecticut Department of Environmental Protection, dated January 12, 1993, submitting a revision to the Connecticut State Implementation Plan.

(B) Section 22a-174-30 of the Connecticut Regulations for the Abatement of Air Pollution, entitled "Dispensing of Gasoline/Stage II Vapor Recovery," dated November 1992.

(C) Letter from the Connecticut Secretary of State's office indicating that the regulation entitled "Dispensing of Gasoline/Stage II Vapor Recovery" became effective on November 24, 1992.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

(B) Connecticut Department of Environmental Protection document entitled "Narrative of SIP Revision: Stage II Vapor Recovery," dated January 1993.

Subpart OO—Rhode Island

3. Section 52.2070 is amended by adding paragraph (c)(39) to read as follows:

§ 52.2070 Identification of plan.

* * * * * *

(c) * * *

(39) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on January 12, 1993.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management, dated January 12, 1993,

submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island Department of Environmental Protection, Division of Air and Hazardous Materials, Air Pollution Control Regulation No. 11, entitled "Petroleum Liquids Marketing Storage," submitted to the Secretary of State on January 11, 1993.

(C) Letter from the Rhode Island Department of Environmental Protection, dated February 10, 1993, stating that Regulation No. 11 became effective on January 31, 1993, 20 days after being filed with the Secretary of State.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

4. In § 52.2081, Table 52.2081 is amended by adding a new entry to the end of state citation "No. 11" to read as follows:

§ 52.2081 EPA-Approved Rhode Island Regulations.

* * * * *

TABLE 52.2081—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
*	*	*	*	*	*	*
No. 11	Petroleum Liquids Marketing and Storage..	1/11/93	December 17, 1993.	[Insert *FR* citation from published date].	(c)(39)	Regulation revised to add new Stage II vapor recovery requirements.
*	*	*	*	*	*	*

[FR Doc. 93-30776 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[OH51-1-6078; FRL-4811-5]

Approval and Promulgation of Implementation Plan for Carbon Monoxide; Vehicle Inspection and Maintenance Program; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving a State Implementation Plan (SIP) revision submitted by the State of Ohio as it applies to the tailpipe test vehicle inspection and maintenance (I/M) of motor vehicles in Cuyahoga County, Ohio. This revision will reduce the emissions of carbon monoxide (CO) and volatile organic compounds by requiring motor vehicles in Cuyahoga County to be tested, and maintained if necessary, on an annual basis. This I/M program is required in order for Cuyahoga County to maintain the National Ambient Air Quality Standards for CO and ozone. This is a condition for the State's request for redesignation to attainment for CO of the current Cleveland CO nonattainment area. The approval of this SIP revision satisfies this requirement and allows the redesignation process to move forward.

EFFECTIVE DATE: This final rulemaking becomes effective on January 18, 1994.

ADDRESSES: Copies of the CO I/M SIP revision request and other materials related to this final rule are available for inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, (AE-17J), Chicago, Illinois 60604.

A copy of this revision to the Ohio I/M CO SIP is available for inspection at: U.S. Environmental Protection Agency, Jerry Kurtzweg (W947A), 401 M Street, SW., 6102, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Air Enforcement Branch, (AE-17J), U.S. Environmental Protection Agency, 77 West Jackson Blvd, Chicago, Illinois 60604, (312) 886-6084.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

This **Federal Register** notice describes USEPA's decision to approve a revision to the I/M portion of the Ohio CO SIP, which is designed to reduce the emissions of CO from automobiles in Cuyahoga County. This revision was proposed in the **Federal Register** on September 24, 1993. The USEPA sought comments on the proposal, and in particular asked for comment on three issues which USEPA believed were weaknesses in the program. These issues included: evaluation of the effectiveness of the registration denial process, operation of non-state registered and plated vehicles in the area, and permanent exemption from inspection or testing of diesel powered vehicles.

II. Public Comment/USEPA Response

There were no comments of any kind received from the public or any interested party on any part of the I/M proposal. Therefore, the USEPA is taking action to approve the Ohio I/M SIP for Cuyahoga County, Ohio. This action is being taken as part of the process for Ohio meeting the requirements for a request for redesignation to attainment for CO of Cuyahoga County. This I/M program, implemented in January 1991, meets the requirements found in the program rules published in the **Federal Register**, January 22, 1981 (46 FR 7182).

III. Rulemaking Action

The USEPA is approving the I/M portion of this requested revision to the Ohio Carbon Monoxide State Implementation Plan to control CO emissions from automobiles in Cuyahoga County. The USEPA finds that this I/M program meets all the requirements of the USEPA rules published in January 22, 1981 (46 FR 7182), for SIPs in areas that needed an extension to December 1987, to attain the CO and ozone standards.

Originally classified as a Table 1 action, this action is now classified and processed as a Table 3 action, because of the lack of comments on the proposal. The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

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

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 February 15, 1994. 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, Incorporation by reference, Reporting and recordkeeping requirements.

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

Dated: November 29, 1993.

Valdas V. Adamkus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(95) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(95) On October 16, 1992, the State of Ohio submitted the tailpipe test inspection and maintenance program revisions to its carbon monoxide implementation plan for Cuyahoga County.

(i) Incorporation by reference.

(A) Ohio Administrative Code: amended rules, 3745–26–01 through 3745–26–09, effective May 15, 1990, and new rules, 3745–26–10 and 3745–26–11, effective May 15, 1990.

(ii) Additional materials–remainder of the State submittal.

(A) Letter from the Director, Ohio Environmental Protection Agency, dated November 18, 1992, and additional materials.

[FR Doc. 93–30775 Filed 12–16–93; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[OR12–2–6161; FRL–4810–1]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving the revisions to the State of Oregon Implementation Plans which were submitted by the State of Oregon Department of Environmental Quality (ODEQ) for the purpose of bringing about the attainment of the National ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The implementation plan was submitted by ODEQ on November 15, 1991, to satisfy certain Federal Clean Air Act requirements for an approvable moderate PM_{10} nonattainment area SIP for Grants Pass, Oregon. This action to approve this plan has the effect of making requirements adopted by the ODEQ federally enforceable by EPA.

EFFECTIVE DATE: February 15, 1994.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at the following: Jerry Kurtzweg ANR–443, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Environmental Protection Agency, Air Programs Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101 and State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Air Programs Development Section (AT–082), US Environmental Protection Agency, Region 10, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION:

I. Background

The Grants Pass, Oregon, area was designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.[2] EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those state submittals containing moderate PM_{10} nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

On March 10, 1993, EPA announced its proposed approval of the moderate nonattainment area PM_{10} SIP for Grants Pass, Oregon (58 FR 13230–13234). In that rulemaking action, EPA described its interpretations of Title 1 and its rationale for proposing to approve the Grants Pass PM_{10} SIP taking into consideration the specific factual issues presented.

Those states containing initial moderate PM_{10} nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Additional provisions are due at a later date. States with initial moderate PM_{10} nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992 (see section 189(a)). Such states also must submit contingency measures by November 15, 1993, which become effective without

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[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM_{10} nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM_{10} NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–13544).

II. Response To Comments

EPA received no comments on its March 10, 1993, (58 FR 13230–13234) **Federal Register** proposal to approve the Grants Pass moderate nonattainment area PM_{10} SIP as a revision to the State of Oregon Air Quality Control Program, Volume 2, The Federal Clean Air Act State Implementation Plan (and other State Regulations).

III. This Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565–13566). In this action, EPA is approving the plan submitted to EPA on November 21, 1990, as revised by addenda submitted on November 15, 1991 (examined together as a comprehensive submittal for the area). EPA has determined that the submittal meets all of the applicable requirements of the Act. Among other things, the Oregon Department of Environmental Quality has demonstrated the Grants Pass moderate PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994. Note that EPA's action includes approval of the contingency measures for the Grants Pass nonattainment area.

Subsequent to the public notice proposing approval of the Grants Pass PM_{10} SIP, EPA determined that the Oregon Revised Statute Chapter 468, as amended in 1991, failed to provide sufficient authority to ensure that the industrial source control measures contained in the Grants Pass PM_{10} SIP could be adequately enforced. Specifically, ORS 468.126(1) provided that penalties could not be assessed against a source for permit violations unless the state first provided notice of the violation to the source, and further, if within five days, the source came into compliance or provided an adequate schedule to come into compliance in the future, no penalties could be assessed.

EPA informed the Oregon Department of Environmental Quality that this provision was unacceptable to the extent it applied to permit limits which were relied on to attain, maintain or demonstrate attainment with a NAAQS.

On September 3, 1993, the Governor of Oregon signed into law new legislation correcting this deficiency. The new law provides that the five-day advance notice provision required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from Federal approval or delegation. See Oregon Senate Bill 86, 1993 Session, § 3 (1993) to be codified at ORS 468.126(2)(e). Because the notice provision bars civil penalties from being imposed for certain permit violations, application of ORS 468.126(1) fails to provide the adequate enforcement authority that a state must demonstrate to obtain SIP approval. See section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the notice requirement would disqualify this PM_{10} program from Federal approval. Thus, the state has acknowledged that, pursuant to ORS 468.126(2)(e), the notice provision in ORS 468.126(1) will not apply to violations of SIP requirements contained in permits, including permits containing industrial source control requirements, relied upon to attain, maintain or demonstrate attainment with a NAAQS.

IV. Administrative Review

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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 February 15, 1994. 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)) (See 42 U.S.C. 7607 (b)(2))

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

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

Dated: November 11, 1993.

Gerald A. Emison,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(99) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(99) On November 21, 1990, the Director of the Department of Environmental Quality (ODEQ) submitted a State Implementation Plan for Particulate Matter, Grants Pass, Oregon, Moderate Nonattainment Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standards for PM_{10}. On November 15, 1991, the Director of ODEQ submitted an Addendum to the November 21, 1990 submittal.

(i) Incorporation by reference.

(A) November 21, 1990 letter from the Director of the Department of Environmental Quality to EPA Region 10 submitting revisions to the Oregon state implementation plan.

(B) November 15, 1991 letter from the Director of the Department of Environmental Quality to EPA Region 10 submitting revisions to the Oregon state implementation plan.

(C) State Implementation Plan for Particulate Matter, Grants Pass, Oregon Nonattainment Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standards for PM_{10} dated November 1990, adopted by the Environmental Quality Commission on November 2, 1990 and effective on November 2, 1990.

(D) PM_{10} Control Strategy for Particulate Matter (Addendum) Grants Pass, Oregon Nonattainment Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standards for PM_{10} dated October 1991, adopted by the Environmental Quality Commission on November 8, 1991 and effective on November 13, 1991.

[FR Doc. 93-30774 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-930-4210-06; AZA-13010]

43 CFR Public Land Order 7022

Revocation of Secretarial Order Dated June 30, 1908; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Secretarial Order dated June 30, 1908, insofar as it affects the remaining 41.69 acres of National Forest System land withdrawn for use as the Payson Administrative Site. The land is no longer needed for this purpose, and the revocation is needed to accommodate a proposed land exchange under the General Exchange Act of 1922. The original withdrawal, containing 125.50 acres, has been reduced in size over the years to accommodate other uses and needs. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land is located within the town limits of Payson, and therefore, is not subject to mineral leasing.

EFFECTIVE DATE: January 18, 1994.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-650-0509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Secretarial Order dated June 30, 1908, which withdrew National Forest System land for use as the Payson Administrative Site, is hereby revoked insofar as it affects the remaining 41.69 acres described below:

Gila and Salt River Meridian

Tonto National Forest

T. 10 N., R. 10 E.,
Sec. 5, lot 6, N½NE¼SE¼SE¼,
SW¼NE¼SE¼SE¼,
N½SE¼NE¼SE¼SE¼,
SW¼SE¼NE¼SE¼SE¼,
W½SE¼SE¼SE¼, and
W½E½SE¼SE¼SE¼;
Sec. 8, lot 1, and NE¼NE¼NE¼;
Sec. 9, lot 2.

The area described contains 41.69 acres in Gila County.

2. At 10 a.m. on January 18, 1994, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: December 6, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93-30733 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 930932-3314; I.D. 081693C]

Summer Flounder Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the conservation and management measures contained in Amendment 5 to the Fishery Management Plan for the Summer Flounder Fishery (FMP). This rule allows two or more states, under mutual agreement and with the concurrence of the Director, Northeast Region, NMFS (Regional Director), to transfer or combine their summer flounder commercial quota. The intent of Amendment 5 is to provide a mechanism within the overall coastwide quota to give the states flexibility in quota management in order to respond to changes in landing patterns or emergency situations.

EFFECTIVE DATE: January 18, 1994.

ADDRESSES: Copies of Amendment 5, the environmental assessment (EA), and the regulatory impact review (RIR) are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, room 2115 Federal Building, 300 S. New Street, Dover, DE.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, Fishery Policy Analyst, 508-281-9101.

SUPPLEMENTARY INFORMATION: The summer flounder fishery is managed under the FMP, which was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations for the fishery are found at 50 CFR part 625.

Amendment 5 was prepared by the Council in consultation with the ASMFC and the New England and South Atlantic Fishery Management Councils. A notice of availability for

Amendment 5 was published in the **Federal Register** on August 20, 1993 (58 FR 44318). A proposed rule to implement Amendment 5 was published on September 8, 1993 (58 FR 47245).

Under Amendment 5, quota transfers or combinations are subject to approval by the Regional Director. The final rule clarifies the manner in which participating states must request approval by the Regional Director of a quota transfer or combination. This clarification is outlined in the section below, which specifies changes from the proposed rule. The criteria that the Regional Director must use to evaluate each request are unchanged from the proposed rule.

Upon approval by the Regional Director of a request for quota transfer or combination, NMFS will publish a notification to that effect in the **Federal Register.** NMFS law enforcement agents will also be notified of quota transfers or combinations before landings can be made under the adjusted quota. For these reasons, only one request from a state for a quota transfer or combination can be in process at any given time.

All landings made in a state during the calendar year will be counted against that state's commercial quota, regardless of whether that state has received additional quota as a result of a quota transfer or combination.

In the case of quota transfer, the recipient state is responsible for a quota overage. If it occurs, the overage will be deducted from the following year's quota for that state. In the case of a quota combination, if an overage occurs it will be deducted in the following year from the quotas of all participant states, with the deduction made in the same proportion as their contribution to the combined quota.

Technical Changes

The final rule also includes two technical changes to the existing implementing regulations. The first, which was requested by NMFS law enforcement agents, defines "land" in the summer flounder regulations in the same way that it is defined in the FMP for Atlantic Sea Scallops: "Land means to begin offloading fish, to offload fish, or to enter port with fish." This change is implemented to enhance enforcement of landings prohibitions and restrictions.

The second technical change modifies the size of the container required in § 625.25, to make it consistent with the size proposed by the New England Fishery Management Council as part of Amendment 5 to the Fishery Management Plan for the Northeast Multispecies Fishery. Because many vessels participate in both fisheries, this change is being made to improve enforcement efforts and prevent confusion among vessel operators. Both of these technical changes were contained in the proposed rule.

Changes From the Proposed Rule

Section 625.20(f) has been revised to clarify that states must request approval of a quota transfer or combination by individual or joint letter(s) to the Regional Director. The letter(s) must specify the participating states and the amount of quota involved. A responsible official from each participating state must sign the joint letter or his/her own letter.

The language in § 625.25, which provides the specifications for the box in which summer flounder is to be stored, has been revised to make it consistent with similar proposed implementing regulatory language in Amendment 5 to the Fishery Management Plan for the Northeast Multispecies Fishery.

Comments and Responses

One comment was received from an individual concerning the proposed amendment.

Comment: The commenter indicated that quota transfers should be allowed; however, in order to give advance notice to the industry and fisheries enforcement agencies, they should be made prior to the start of the quarter in which they are to take effect.

Response: Amendment 5 is intended to provide the states with flexibility in quota management. NMFS sees no reason to limit this flexibility by specifying the timing of quota transfers or combinations. The existing regulation allows a state to make transfers on a quarterly basis if it chooses.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that Amendment 5 is necessary for the conservation and management of the summer flounder fishery.

When this rule was proposed, the General Counsel of the Department of Commerce certified to the Small Business Administration that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities for the reasons set forth in the RIR prepared by the Council. A copy of the RIR may be obtained from the Council (see **ADDRESSES**). As a result, a regulatory flexibility analysis was not prepared.

The final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The requirement for states to request quota transfers and combinations has been approved by the Office of Management and Budget under control number 0648-0202. The reporting burden for a state to make a request, including the time necessary for reviewing instructions, gathering the data needed, and completing and reviewing the request, is estimated at 15 minutes. Send comments regarding this burden hour estimate, including suggestions for reducing the burden, to Richard B. Roe, Director, Northeast Region, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298, and to the Office of Management and Budget, Paperwork Reduction Project (0648-02020, Washington, DC 20503.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: December 10, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 625 is amended as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

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

2. A definition of *land* is added to § 625.2 to read as follows:

§ 625.2 Definitions.

* * * * *

Land means to begin offloading fish, to offload fish, or to enter port with fish.

* * * * *

3. Section 625.20 is amended by adding a new paragraph (f) to read as follows:

§ 625.20 Catch quotes and other restrictions.

* * * * *

(f) *Quota transfers and combinations.* Any state implementing a state commercial quota for summer flounder may request approval from the Regional Director to transfer part or all of its annual quota to one or more states. Two or more states implementing a state commercial quota for summer flounder may request approval from the Regional Director to combine their quotas, or part of their quotas, into an overall regional quota. Requests for transfer or combination of commercial quotas for

summer flounder must be made *by individual or joint letter(s)* signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The letter(s) must certify that all pertinent state requirements have been met and identify the states involved and the amount of quota to be transferred or combined.

(1) Within 10 working days following the receipt of *the letter(s)* from the states involved, the Regional Director shall notify the appropriate state officials of the disposition of the request. The Regional Director shall consider the following criteria in the evaluation of requests to transfer or combine quota.

(i) The transfer or combination will not preclude the overall annual quota from being fully harvested;

(ii) The transfer addresses an unforeseen variation or contingency in the fishery; and

(iii) The transfer is consistent with the objectives of the FMP and Magnuson Act.

(2) The transfer or combination of quota shall be valid only for the calendar year for which the request was made and will be effective upon the filing by NMFS of a notification of the approval of the transfer or combination with the Office of the Federal Register.

(3) A state may not submit a request to transfer or combine quota if a request to which it is party is pending before the Regional Director. A state may submit a new request when it receives notice that the Regional Director has disapproved the previous request or when notification of the transfer or combination of quota has been filed at the **Federal Register**.

(4) If there is a quota overage among states involved in the combination of quota at the end of the fishing year, the overage will be deducted from the following year's quota for each of the states involved in the combined quota. The deduction will be proportional based on each state's relative share of the combined quota for the previous year. A transfer or combination of quota does not alter any state's percentage share of the overall quota specified in paragraph (d) of this section.

* * * * *

4. Section 625.25, paragraph (d) is revised to read as follows:

§ 625.25 Possession limit.

* * * * *

(d) Neither owners nor operators of otter trawlers issued a permit under § 625.4 and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh-size requirements (except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies) may possess 100 pounds (45.4 kg) or more of summer flounder May 1 through October 31 or 200 pounds (90.8 kg) or more of summer flounder November 1 through April 30. Summer flounder on board these vessels shall be stored separately in the appropriate number of standard 100-pound (45.4 kg) totes, and shall be readily available for inspection. The standard 100-pound (45.4 kg) tote has a liquid capacity of 18.2 gallons (70 liters), or a volume of not more than 4,320 cubic inches (70,792 cubic cm).

[FR Doc. 93-30730 Filed 12-16-93; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 241
Friday, December 17, 1993

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

Federal Grain Inspection Service

7 CFR Part 810

RIN 0580-AA14

United States Standards for Flaxseed, Mixed Grain, Oats, Rye, Sunflower Seed, and Triticale

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Grain Inspection Service (FGIS) invites comments and suggested changes to the United States Standards for Flaxseed, Mixed Grain, Oats, Rye, Sunflower Seed, and Triticale.

DATES: Comments must be submitted on or before February 15, 1994.

ADDRESSES: Written comments must be submitted to George Wollam, FGIS, USDA, room 0624 South Building, P.O. Box 96454, Washington, DC 20090-6454; FAX (202) 720-4628.

All comments received will be made available for public inspection in room 0624 USDA South Building, 1400 Independence Avenue SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720-0292.

SUPPLEMENTARY INFORMATION: FGIS is conducting a review of the United States Standards for Flaxseed, Mixed Grain, Oats, Rye, Sunflower Seed, and Triticale in 7 CFR part 810.

During this review, FGIS will assess the need for revision of the various sections of the standards, the potential for improvements, and language clarity.

FGIS invites any comments and/or suggestions on changes to the flaxseed, mixed grain, oats, rye, sunflower seed, and triticale standards.

Authority: Secs. 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76).

Dated: November 24, 1993.

David R. Galliart,

Acting Administrator.

[FR Doc. 93-30784 Filed 12-16-93; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR PART 1250

RIN 0581-AA87

[Docket No. PY-93-004]

Amendment to Egg Research and Promotion Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Egg Research and Promotion Rules and Regulations by changing the State composition of the six geographic areas and reapportioning the membership on the American Egg Board. The Board approved these changes at its meeting and has requested that the Secretary amend the Rules and Regulations accordingly. These proposed adjustments are based on changing geographic trends in egg production and would become effective beginning with the 1994-95 membership term.

DATES: Comments must be received on or before January 18, 1994.

ADDRESSES: Written comments are to be mailed to Janice L. Lockard, Chief, Standardization Branch, Poultry Division, AMS, USDA, room 3944-South, P.O. Box 96456, Washington, DC 20090-6456. Comments received may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. State that your comments refer to Docket No. PY-93-004.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, 202-720-3506.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 14 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, any provisions of such order or any obligations imposed in connection with such order are not in accordance with law; and requesting a modification of the order or an exemption therefrom. Such person is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint is filed within 20 days after date of the entry of the ruling.

The AMS Administrator has determined that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1250 have been previously approved by the Office of Management and Budget and assigned OMB Control No. 0581-0093 under the Paperwork Reduction Act of 1980.

Background and Proposed Change

The Egg Research and Promotion Order (7 CFR 1250.301-1250.363) established pursuant to the Egg Research and Consumer Information Act, as amended (7 U.S.C. 2701 *et seq.*), provides in § 1250.328(d) that any changes in representation on the American Egg Board be determined by the percentage of total U.S. egg production in each of the six geographic areas. The Board is authorized 18 members, and representation in each of the 6 areas is based on egg production in the area. The Order further provides in § 1250.328(e) that the Board or designated person or agency shall conduct periodic reviews of production by geographic area at any time, not to exceed 5 years, to assure that representation on the Board, insofar as is practicable, is fair and equal.

During the development process of the Order in 1975, the 48 contiguous States of the United States and the District of Columbia were divided into 6 geographic areas for purposes of determining proportionate representation on the Board. The areas corresponded with those used by the National Agricultural Statistics Service, USDA, for some egg industry statistics.

The Order provides in § 1250.328(d) that Board membership in each area be determined by calculating the percentage of U.S. egg production in the area, multiplying that total by 18 (total Board membership), and rounding to the nearest whole number.

In 1984, a review of 1983 production statistics revealed that production trends had changed, and area membership was adjusted accordingly.

For the 1993 review, the American Egg Board 1992 production data were reconciled with 1992 data from USDA to verify the shifts in production trends. The review showed that the West North Central and Western areas are no longer proportionately represented on the Board. However, due to rounding off, using the formula in the Order results in 19 members, exceeding the Order's 18-member limit.

Because of this incongruity, the Board submitted a recommendation to the Secretary in accordance with § 1250.328(e) of the Order to redistrict the six areas and reapportion the members and alternates. The following changes are proposed accordingly:

Area	State composition		Membership	
	Current	Revisions	Current	Revisions
I—North Atlantic	Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, District of Columbia.	Add Virginia, West Virginia	3	None.
II—South Atlantic	Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia.	Add Alabama, Kentucky, Tennessee; Lose Virginia, West Virginia.	3	None.
III—East North Central	Illinois, Indiana, Michigan, Ohio, Wisconsin	Lose Illinois, Wisconsin	3	None.
IV—West North Central	Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.	Add Illinois, Wisconsin; Lose Kansas, Missouri.	2	Increase to 3.
V—South Central	Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, Texas.	Add Colorado, Kansas, Missouri, New Mexico; Lose Alabama, Kentucky, Tennessee.	3	None.
VI—Western	Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.	Lose Colorado, New Mexico	4	Decrease to 3.

The change in membership is based on production in the newly formed areas and application of the formula in § 1250.328(d) of the Order, as follows:

Redistricted area	Reported cases	Percentage of total production	Percentage of total production times 18	Revised board membership [1]
I—North Atlantic	39,052,000	17.21	3.09	3
II—South Atlantic	38,118,000	16.79	3.02	3
III—East North Central	41,201,000	18.15	3.27	3
IV—West North Central	36,508,000	16.08	2.90	3
V—South Central	36,083,000	15.89	2.86	3
VI—Western	36,011,000	15.87	2.86	3
Total U.S. production	226,973,000	99.99	18.00	18

[1] Based on rounding to the nearest whole number [§ 1250.328(d)].

List of Subjects in 7 CFR Part 1250

Administrative practice and procedure, Advertising, Agricultural research, Eggs and egg products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, title 7, CFR part 1250 is proposed to be amended as follows:

PART 1250—EGG RESEARCH AND PROMOTION

1. The authority citation of part 1250 continues to read as follows:

Authority: Pub. L. 93–428, 88 Stat. 1171, as amended, 7 U.S.C. 2701–2718.

2. Section 1250.510 is revised to read as follows:

§ 1250.510 Determination of Board membership.

(a) Pursuant to § 1250.328 (d) and (e) of the Order, the 48 contiguous States of the United States shall be grouped into 6 geographic areas, as follows: Area 1 (North Atlantic States)—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; Area 2 (South Atlantic States)—Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee; Area 3 (East North Central States)—Indiana, Michigan, and Ohio; Area 4 (West North Central States)—Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; Area 5 (South Central States)—Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Texas; Area 6 (Western States)—Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(b) Board representation among the 6 geographic areas is apportioned to reflect the percentage of United States egg production in each area times 18 (total Board membership). The number of members of the Board, beginning with the 1995–96 term, are: Area 1–3,

Area 2–3, Area 3–3, Area 4–3, Area 5–3, Area 6–3. Each member will have an alternate appointed from the same area.

Dated: December 10, 1993.

Lon Hatamiya,

Administrator.

[FR Doc. 93–30816 Filed 12–16–93; 8:45 am]

BILLING CODE 3410–02–P

Foreign Agricultural Service

7 CFR Part 1525

Reporting Requirements Related to Tobacco Exports

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Section 214 of the Tobacco Adjustment Act of 1983, as amended, requires tobacco exporters to report certain information to the Secretary regarding such exports. The Foreign Agricultural Service (FAS) is seeking comments relative to the development of regulations to implement the statutory requirements.

DATES: To receive consideration, comments must be received on or before March 17, 1994.

ADDRESSES: Comments should be sent to the Director, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service, U.S. Department of Agriculture, room 5932 South Building, 14th and Independence Ave., SW., Washington, DC 20250–1000.

These comments will be available for public inspection at this address, Monday–Friday, from 9 a.m. to 4 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Kenneth Howland, Director, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service. Telephone: (202) 720–9516.

SUPPLEMENTARY INFORMATION: Section 214 of the Tobacco Adjustment Act of 1983, 7 U.S.C. 509 ("section 214"), as added by section 1557 of the Food, Agriculture, Conservation, and Trade Act of 1990, and subsequently amended by section 337 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, requires that certain information relating to tobacco exports be reported to the Secretary of Agriculture. Section 214(a) provides that "[n]ot later than 60 days after the export of tobacco or a tobacco product not described in subsection (b), the exporter of such tobacco or tobacco product shall prepare a report containing the records relating to such export and submit such report to the Secretary of Agriculture." Subsection (b) provides, in part, that "[m]anufacturers of tobacco products shall prepare and maintain records on all finished cigarettes and cigarette ready tobacco. Information contained in such records shall be aggregated on a quarterly basis, certified as accurate by the entity preparing such aggregation, and submitted to the Secretary of Agriculture as provided for in this Section * * *." Records required to be maintained under these provisions include crop year, grade, type, country of origin, and poundage. In accordance with section 214(g), the "personally identifiable information contained in reports under this section may be withheld in accordance with section 552(b)(4) of title 5, United States Code." Section 214(f) states that an "exporter who violates the provisions of this section with respect to the provision of false information or the failure to provide required information shall be subject to section 1001 of title 18, United States Code, for each violation."

Who Must Report

Section 214(a) specifically states that an "exporter" of tobacco or tobacco products other than cigarettes and cigarette ready tobacco must report certain information pertaining to exports of such tobacco. However, section 214(c) provides that the reporting requirements of section 214 "shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging." Section 214(c) goes on to provide that, in order to qualify for this exception, "the tobacco must have a certification that its end use is for cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging."

Comments are specifically requested regarding the exception in section 214(c) and the form of any certification requirement. It would appear that Congress intended that exports of cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging be exempt from any reporting or record keeping requirements and, in addition, that exporters of tobacco in any other form that is to be used in one of these products would likewise be exempt if such end use can be certified.

Section 214(a) specifically refers to an "exporter" reporting certain required information. It is not as clear, however, who is responsible for reporting the information referred to in section 214(b) relating to cigarettes and cigarette ready tobacco, and what the reports are to cover. Section 214(b) refers to "manufacturers" maintaining records on all cigarettes and cigarette ready tobacco and does not specifically refer to the records as relating to exports as is the case in section 214(a). The penalty provision (section 214(f)) refers only to "exporters", not manufacturers. There are references in the legislative history indicating that exporters of cigarettes and cigarette ready tobacco are intended to be covered by section 214(b). The Conference Report (H.R. Rep. No. 101–916), 101st Cong. 2d Sess. 1022–23 (1990), (hereafter "the Conference Report") states:

> The Conference agreement envisions there will be two reports. One, relating to general tobacco exports * * * and another, relating to cigarettes and cigarette ready tobacco exports * * *. The tobacco reporting requirements simply require reports to be filed on all tobacco shipments under two different mechanisms * * *. Report requirements for cigarettes or cigarette ready tobacco shipments allow for individual aggregate quarterly reporting of tobacco shipments by individual companies * * *.

Comments should specifically address the questions as to who is required to certify and report and what information must be reported. We ask that comments on the reporting requirement focus on the impact that these various interpretations of the statute would have on manufacturers of these products.

Format of Reports

Comments are sought on report format. Section 214(a), referring to tobacco or a tobacco product not described in subsection (b), states that exporters "shall prepare a report containing the records relating to such export * * *." Section 214(b), relating to cigarettes and cigarette ready tobacco, does not contain similar wording.

Is section 214(a) broad enough to permit the reporting of the information to be submitted on special forms, rather than require that exporters copy and forward the supporting records? In the case of cigarettes and cigarette ready tobacco, the supporting records must be maintained for a period of five years pursuant to section 214(b). The statute does not address any time period for retention of records regarding exports for unmanufactured tobacco. Should these records be retained for only three years which is the time period generally provided by Office of Management and Budget regulations to implement the Paperwork Reduction Act of 1980?

Specific Reporting Information

FAS desires to uniformly apply the export reporting requirements to all entities. Section 214(b) explicitly

addresses record keeping and reporting requirements for cigarettes and cigarette ready tobacco to ensure blend confidentiality by allowing aggregate reporting. It is recognized that leaf exporters and their customers are also concerned about the confidentiality of the content of stripped leaf blended exports since some leaf exporters are blending for manufacturers. Almost all foreign customers require blending of several USDA standard grades to make a "packed" grade. The make-up of these packed grades is sensitive to many foreign customers and they take great steps to protect this information. It is recognized that detailed reporting on an individual shipment basis would likely cause some customers to seek alternative suppliers. Comments are requested as to how this confidentiality concern may be satisfied within the statutory requirements.

Consideration must be given to the burden on exporters of maintaining the detailed information required by the statute. Section 214(d) identifies the specific information that must be reported by all exporters of unmanufactured tobacco, cigarettes and cigarette ready tobacco, i.e., crop year, grade, type, country of origin, and poundage. These factors, however, often cease to have any commercial significance in the continuing marketing and sale of the tobacco or tobacco products after the tobacco leaf is purchased at auction and, absent the reporting requirement, tobacco marketers would have no ready means or reason to track this information. With this in mind, various options being considered include:

Crop Year

Section 214(d) requires that exporters shall maintain records including the "crop year" of tobacco exported. The issue of maintaining crop year designations through the point of export is confused by the fact that different crop years exist for different types of tobacco and the mixing of crop years does take place. Options being considered include:

1. *Requiring reporting of only the crop year that is predominant in a particular shipment.* It is recognized that, under this option, trade sensitive information could be more easily protected. However, it is believed that this option would not result in any meaningful reduction in the compliance burden on exporters and would not provide detailed data. Reporting would also be difficult to audit.

2. *Requiring reporting of the crop year specified on export bills of lading or simply relying on the exporters' practice of determining crop years.* Under this option, trade sensitive data would be protected. Furthermore, exporters could minimize compliance expenses by using records and data currently available. However, such reporting may not lead to a detailed breakout of the crop years included in export shipments.

3. *Requiring that the crop year designations for each crop year of tobacco exported be separately maintained and identified in a particular shipment.* This option would result in the most complete reporting of data and potential for compliance review. However, because no market need exists for the information, tracking crop year information throughout the various levels of the tobacco industry would be time consuming and expensive. For example, marketing years are not uniform across all tobacco types, and mixing of two or more marketing years of the same type, or different types, of tobacco may occur.

The Conference Report indicates that the crop year designation should reflect the crop year which USDA would normally assign a particular lot of tobacco and, in the case of imported tobacco, the "marketing year." The crop year normally assigned by USDA is the year the tobacco is marketed, i.e., "marketing year", rather than the year of production. This being the case, using the term "marketing year" in the regulations instead of the term "crop year" which could otherwise lead to some confusion among buyers is being considered.

Grade

Section 214(d) also requires that the grade of tobacco be reported. USDA standard grade designations are assigned to several imported tobaccos and to most domestic tobacco leaf sold on the auction floor. These auction floor grades are the basis of price support for many kinds of tobacco. It is recognized that, in the tobacco trade, information regarding USDA grade is not typically maintained after the tobacco leaf is first purchased at auctions or imported. Tobacco is often re-graded by the industry when it enters a processing plant and manufacturers of cigarettes, cigarette ready tobacco and other tobacco products often blend many different types and grades of tobacco into specialized company products that are assigned unique company grades. When shipped, the tobacco may be assigned a different grade determined by the purchaser. Options being considered include:

1. *Require reporting of the predominant standard USDA grade in a particular export shipment.* It is recognized that, under this option, trade sensitive information could be more easily protected. However, it is believed that this option would not result in any meaningful reduction in the compliance burden on exporters and would not provide detailed data. Reporting would also be difficult to audit.

2. *Permit reporting of leaf tobacco officially re-graded prior to export.* This option would allow exporters of unmanufactured tobacco who wish to pay USDA for re-grading the tobacco prior to export to report that grade as an alternative to keeping a complex data tracking system. However, this option may be expensive and a cumbersome burden on exporting entities.

3. *Permit reporting of the company/customer/cooperative grade shown on the export documentation.* This option would permit exporters to use data readily available at minimal expense and protect trade sensitive information. Furthermore, USDA could require additional information that would allow for the identification of the range of official USDA grades that fall within the company grades used in blend-ready tobacco similar to the process that the U.S. Customs Service uses in administering duty drawback provisions. However, it would not provide detailed information given the divergence of grade designations assigned to exports by individual companies. Further, requiring exporters to provide information which would allow the export grades to be translated to a range of USDA standard grades would not yield complete information on the export shipment since the identity of the individual USDA grades in a particular lot would not necessarily be designated.

4. *Requiring that information concerning the standardized USDA grades assigned to the tobacco leaf be maintained and reported by exporters of leaf, cigarettes, and cigarette ready tobacco.* While this option would require exporters to maintain a complex data tracking system that could be extremely time consuming and expensive, this option would provide standardized and complete information concerning specific USDA grades of tobacco exported.

Section 214 does not require that tobacco be graded. Therefore, grades would not need to be reported on tobacco that does not receive an official USDA grade designation. It is recognized that this factor may have an adverse effect on the present marketing system of tobacco. Some buyers may be encouraged to bypass the auction system and buy directly from the

farmers thus relieving the exporter from having to report grades.

Type

Section 214(d) requires that "type" of tobacco exported be reported. The Conference Report's explanation of this provision gives, as examples, flue-cured, burley and a number of other "classes" and "types" of tobacco even though flue-cured and burley tobacco account for 95 percent of U.S. tobacco production, over 80 percent of exports, and 78 percent of imports (excluding oriental and stems). It is also recognized that some exporters may have difficulty complying with the law because required data are not available or maintained under the normal course of business for some of the other types of tobaccos. Also, compliance would be expensive. Comments are requested on how these difficulties may be minimized.

Country of Origin

This term may best be defined as the country in which the tobacco is grown.

Poundage

The total pounds exported must be reported. Section 214(d) does not, however, require that poundage be reported by country of origin, class, marketing year, and USDA grade. Comments on report format will be particularly useful in this regard.

In developing regulations to implement this reporting requirement, FAS is interested in determining the economic burdens on various segments of the trade. This information would be helpful in determining if we should support changes to the legislation mandating the reporting. For example, we recognize that there are situations, such as shipments of samples, that would yield no meaningful information and be an excessive burden upon individual exporters.

Based on a review of all tobacco export shipments listed in the "Journal of Commerce" for January–March 1991, we note that unmanufactured tobacco export shipments of less than 1,000 pounds accounted for less than 0.002 percent of the total volume of unmanufactured tobacco exports. Shipments less than 20,000 pounds for unmanufactured tobacco (about one 20-foot container) are less than 0.4 percent of the total volume of exports of unmanufactured tobacco. We are particularly interested in receiving comments from entities that export within these smaller limits to determine the burdens involved and any suggestions to alleviate these problems.

Certifications and Supporting Documents

The statute provides detailed reporting requirements for exporters of tobacco. However, the tobacco may change hands from the time it is initially purchased from the farmer or at auction and the time it is exported and the actual exporter may not have access to the information required to be reported. Therefore, FAS is considering whether to establish a requirement upon all tobacco handlers, processors, loan associations and sellers (other than producers) as well as exporters, to maintain accurate records of the information required to be reported and to pass this information on when tobacco is sold. Thus, when exporters acquire tobacco, they could also acquire from the seller all the information necessary to satisfy the reporting requirements. However, it is recognized that intermediary dealers who fail to provide the necessary information to the exporter are not subject to any statutory penalty. This may complicate, or render ineffective, the process of ensuring compliance with the intent of section 214.

Submission of Export Reports

FAS is considering whether to allow a private-sector central clearinghouse to compile and collectively submit the individual exporters' reports. This is based on the combination of (1) concerns over the confidentiality of brand and leaf blend formulations, and (2) cigarette manufacturers' experience in fulfilling the Federal Cigarette Labeling Act's reporting requirements. (The Federal Cigarette Labeling Act requires cigarette manufacturers to provide the Secretary of the Department of Health and Human Services (DHHS) an annual report on the ingredients added to the tobacco.)

Most American cigarette manufacturers currently employ a separate firm to compile and submit the required reports to DHHS. Upon receiving the reports from the individual manufacturers, this firm prepares two lists, both of which are provided to the Secretary of DHHS. One lists the names of the individual cigarette manufacturers. The other lists the ingredients used on an individual manufacturer basis, but without specifying which manufacturer is associated with a particular set of ingredients. Thus, accurate cross-referencing between the two lists is prevented, and trade-sensitive data are kept secret.

The major concern associated with applying this process in fulfilling section 214 requirements is that the potential exists for the reports to be correlated with other data, thereby revealing exporter identity. For example, "The Journal of Commerce" provides daily listings of exporter-specific data. If official USDA grade data are broken out and reported individually, additional data aggregation may be necessary to adequately protect confidentiality of information such as cigarette formulations. The cigarette manufacturers' quarterly reports could be combined into a single, quarterly, aggregate report on all cigarette exports, i.e., an aggregate of individual aggregates. Foreign tobacco product manufacturers have similar confidentiality concerns with the importation of blended unmanufactured tobacco.

Thus, if official USDA grade data are to be reported individually, exporters and importers could still be concerned about being required to share trade-sensitive information unless additional aggregation were allowed.

Request for Comments

Public comments are invited regarding the implementation of section 214. In addition, FAS invites all interested parties to submit any specific suggestions, comments on pertinent experience, and any conceptual ideas related to this objective.

Upon review of the comments received, FAS will publish a Notice of Proposed Rulemaking in the **Federal Register**.

Dated: November 1, 1993.

Richard B. Schroeter,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 93–30779 Filed 12–16–93; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–182–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require

repetitive inspections to detect cracking in certain fuselage skin lap joints, and repair, if necessary. This proposal is prompted by the results of extensive pressure fatigue tests conducted by the manufacturer. The actions specified by the proposed AD are intended to detect and repair fatigue cracking in certain lap joints, which will ensure safe operation of airplanes that have exceeded their economic design goal.

DATES: Comments must be received by February 14, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-182-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Steven C. Fox, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2777; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-182-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-182-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Boeing Commercial Airplane Group conducted extensive pressure fatigue tests on two fuselage test articles from Boeing Model 747 series airplanes. These tests identified areas of the body lap joints where fatigue cracks may occur. As a result, the FAA has determined that inspection and repair of fatigue cracking in these areas are necessary for the safe operation of Model 747 series airplanes that have exceeded their economic design goal. Fatigue cracking in certain lap joints, if not detected and corrected, could compromise the safe operation of airplanes that have exceeded their economic design goal.

The FAA has reviewed and approved Boeing Service Bulletin 747-53-2367, dated December 18, 1991, that describes procedures for repetitive high frequency eddy current (HFEC) inspections to detect cracking in fuselage skin lap joints in Sections 41, 42, and 46; and repair, if necessary.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive HFEC inspections to detect cracking in certain fuselage skin lap joints. The actions would be required to be accomplished in accordance with the service bulletin described previously.

This proposal would also require the repair of any findings of cracks in accordance with the 747 Structural Repair Manual.

There are approximately 723 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 183 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $140,910, or $770 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Docket 93-NM-182-AD.

Applicability: Model 747-100, -200, -300, 747SP, and 747SR series airplanes, as listed in Boeing Service Bulletin 747-53-2367, dated December 18, 1991, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure in the fuselage due to fatigue cracking in certain lap joints, accomplish the following:

(a) Prior to the accumulation of 22,000 full pressure flight cycles (or, if the external skin panel of an affected lap joint has been replaced: Prior to the accumulation of 22,000 full pressure flight cycles since skin replacement), or within 1,000 landings after the effective date of this AD, whichever occurs later, perform an external surface high frequency eddy current (HFEC) inspection of the skin around the upper row of fasteners in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747-53-2367, dated December 18, 1991.

(b) If no crack is found, repeat the inspection at intervals not to exceed 3,000 full pressure flight cycles.

(c) If any crack is found, accomplish paragraphs (c)(1) and (c)(2) of this AD.

(1) Prior to further flight, perform an open hole HFEC inspection to detect cracking in the upper row fastener holes between the adjacent framesin accordance with the Accomplishment Instructions of Boeing Service Bulletin 747-53-2367, dated December 18, 1991. Prior to further flight, repair any crack found in accordance with the 747 Structural Repair Manual, Chapter 53-30-03.

(2) Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 3,000 full pressure flight cycles.

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

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

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 13, 1993.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-30806 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 71

[Airspace Docket No. 93-AWP-21]

Proposed Modification of Class D Airspace; Mojave, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class D airspace at Mojave, CA. The proposed Class D airspace reconfiguration would accommodate the safe and efficient handling of various types of aircraft operating at Mojave Airport, CA.

DATES: Comments must be received on or before January 24, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP-530, Docket No. 93-AWP-21, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, room 6007, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Gene Enstad, Airspace Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297-0010.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93-AWP-21." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AWP-530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace at Mojave Airport, Mojave, CA. The proposed Class D airspace reconfiguration would accommodate the safe and efficient handling of various types of aircraft operating at Mojave Airport, Ca. If promulgated, the vertical limits would be raised from 4,300 feet MSL to 4,800 feet MSL. The lateral limits would be increased from a 3-mile radius to a 4.3-mile radius.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace listed in the document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as

the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General.

* * * * *

AWP CA D Mojave, CA [Revised]

Mojave Airport, CA

(lat. 35°03'30" N, long. 118°09'03" W)

That airspace extending upward from the surface up to and including 4,800 feet MSL within a 4.3-mile radius of Mojave Airport, excluding that airspace within Restricted Area R–2515. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on November 17, 1993.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 93–30838 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–AWP–22]

Proposed Revocation of Class D Airspace; Fritzsche Army Air Field (AAF), Ft. Ord, CA, and the Proposed Modification of the Salinas, CA, Class D Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke Class D Airspace at Fritzsche AAF, Fort Ord, CA. Due to Base Realignment and Closure (BRAC) Committee recommendations, Fritzsche AAF has closed and discontinued air traffic control services. As a result of the closure of Fritzsche AAF, the FAA proposes to modify the Class D airspace at the Salinas Municipal Airport, Salinas, CA, which is adjacent to Fritzsche AAF.

DATES: Comments must be received on or before January 31, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 93–AWP–22, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, room 6007, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Gene Enstad, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AWP–22." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NRPM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the Class D airspace at Fritzsche AAF, Fort Ord, CA. This revocation is a result of the closure of Fritzsche AAF. Weather reporting at Fritzsche AAF will also be discontinued. The FAA also proposes to modify the Salinas Municipal Airport Class D airspace which abuts the Fritzsche AAF Class D airspace. Presently, the Class D airspace at both Fritzsche AAF and Salinas Municipal Airport is described as two 4.3-mile radius circles joined at a chord drawn between the points of intersection of those two circles. Those circles represent the Class D airspace of the two respective airports. This proposed amendment to the Salinas

Municipal Airport Class D airspace would eliminate any reference to Fritzsche AAF Class D airspace and "round out" the Salinas Class D airspace. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace listed in the document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General

* * * * *

AWP CA D Fort Ord, Fritzsche AAF, CA [Revoked]

* * * * *

AWP CA D Salinas, CA [Revised]

Salinas Municipal Airport, CA
(lat. 36°39'48" N, long. 121°36'23" W)

That airspace extending upward from the surface to and not including 2,500 feet MSL within a 4.3-mile radius of the Salinas Municipal Airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

* * * * *

Issued in Los Angeles, California, on November 29, 1993.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 93–30839 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ASW–32]

Proposed Revision of Class E Airspace: Nacogdoches, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the 700 feet above ground level (AGL) Class E airspace at Nacogdoches, TX. The development of a new localizer Runway (RWY) 36 standard instrument approach procedure (SIAP) and a new Nondirectional Radio Beacon (NDB) RWY 18 SIAP has made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the SIAP's at Nacogdoches, TX.

DATES: Comments must be received on or before February 19, 1994.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 92–ASW–32, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: 817–222–5590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES.** Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–32." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 2601 Mecham Blvd, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, Department of Transportation, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace at Nacogdoches, TX. The development of a new localizer

RWY 36 SIAP and a new NDB RWY 18 SIAP has made this proposal necessary. The Nacogdoches NDB was relocated and the existing SIAP serving RWY 15 was canceled. Concurrent with the cancellation of the NDB RWY 15 SIAP, the new NDB RWY 18 SIAP became operational. Additionally, a localizer RWY 36 SIAP has been established. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the SIAP's at Nacogdoches, TX.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated for airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ASW TX E 5 Nacogdoches, TX [Revised]

Nacogdoches, A.L. Manham, Jr. Regional Airport, TX
(lat. 31°34'41" N., long. 94°42'34" W.)
Nacogdoches RBN
(lat. 31°38'55" N., long. 94°42'20" W.)
Nacogdoches ILS Localizer
(lat. 31°35'11" N., long 94°42'33" W,)
Lufkin VORTAC
(lat. 31°09'44" N., long. 94°43'01" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the A.L. Mangham, Jr. Regional Airport and within 1.8 miles each side of the 360° radial of the LFK VORTAC extending from the 6.5-mile radius to 9.5 miles south of the airport and within 2.9 miles each side of the Nacogdoches ILS localizer south course extending from the 6.5-mile radius to 10.2 miles south of the airport and within 2.2 miles each side of the 003° bearing from the Nacogdoches RBN extending from the 6.5-mile radius to 9.3 miles north of the airport.

* * * * *

Issued in Fort Worth, TX on December 1, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–30840 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ASW–34]

Proposed Revision of Class E Airspace: Hondo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the 700 feet above ground level (AGL) Class E airspace at Hondo, TX. The development of a new Very High Frequency Directional Range (VOR) standard instrument approach procedure (SIAP) to Runway (RWY) 17 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the recently established VOR RWY 17 SIAP at Hondo, TX.

DATES: Comments must be received on or before February 19, 1994.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 92–ASW–34, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–03530; telephone: 817–222–5590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES.** Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–34." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 2601 Meacham Blvd, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive

public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, Department of Transportation, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace, controlled airspace extending upward from 700 feet AGL located at Hondo, TX. The development of a new VOR RWY 17 SIAP has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the new VOR RWY 17 SIAP at Hondo, TX.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated for airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9 56 5, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR. 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ASW TX E5 Hondo, TX [Revised]

Hondo Municipal Airport, TX
(lat. 29°21'35" N., long 99°10'36" W.)
Hondo RBN
(lat. 29°22'24" N., long. 99°10'19" W.)
Hondo VOR
(lat. 29°21'16" N., long. 99°10'33" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Hondo Municipal Airport and within 8 miles west and 4 miles east of the 180° bearing from the Hondo RBN extending from the 352° radial of the Hondo VOR extending from the 6.7-mile radius to 6.9 miles north of the airport.

* * * * *

Issued in Fort Worth, TX on December 1, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–30841 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ASO–22]

Proposed Establishment of Class E Airspace; Puerto Rico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Puerto Rico. This action reestablishes a portion of airspace that was lost as a result of the terminal airspace reconfiguration. The terminal airspace reconfiguration final rule dated August 27, 1992 amended the size of the 1200 ft. transition area from a 100-mile radius of San Juan to an area approximately 15 miles north of San Juan. The reduced area is not adequate to provide necessary air traffic services. The intended effect of this proposal is to provide adequate Class E airspace to contain IFR operations within controlled airspace.

DATES: Comments must be received on or before: January 15, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 93–ASO–22, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5585.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Patterson, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments

submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Puerto Rico. Controlled airspace extending from 1200 feet and 2700 feet is needed to contain IFR operations in the area. The intended effect of this action is to replace a portion of the airspace that was lost as a result of the terminal airspace reconfiguration. The coordinates for this airspace docket are based on North American Datum 83. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, in effect as of September 16, 1993, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ASO PR E5 Puerto Rico

San Juan-Fernando Luis Ribas Dominicci Airport, PR
(lat. 18°27'25" N, long. 66°05'53" W)

That airspace extending upward from 1,200 feet above the surface beginning at lat. 18°50' N, long. 68°00' W; to lat. 18°33' N, long. 64°22' W; to lat. 17°20' N, long. 64°22' W to lat. 17°29' N, long. 64°54' W; to lat. 17°50' N, long. 65°34' W; to lat. 17°42' N, long. 68°00' W; to the point of beginning; excluding that airspace within Warning Areas W–370, W–371, W–373, W–374; and that airspace extending upward from 2,700 feet above the surface beginning at lat. 18°33' N, long. 64°22' W; to lat. 18°25' N, long. 62°52' W; to lat. 17°47' N, long. 62°33' W; to lat. 17°22' N, long. 62°59' W; to lat. 16°58' N, long. 63°00' W; to lat. 17°20' N, long. 64°22' W; to the point of beginning; and that airspace extending upward from 2,700 feet above the surface beginning at lat. 18°45'22.62" N, long. 66°54'58.15" W; to lat. 19°00' N, long. 66°10' W; to lat. 19°00' N, long. 65°45' W; to lat. 18°45' N, long. 64°22' W; to lat. 18°33' N, long. 64°22' W; to the point of beginning.

* * * * *

Issued in College Park, Georgia, on November 19, 1993.

Michael J. Powderly,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 93–30835 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 91

[Airspace Docket No. 92–AWA–2]

Proposed Establishment of Class C Airspace; Billings Logan International Airport; MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish a Class C airspace area at the Billings Logan International Airport, Billings, MT. Billings Logan International Airport is a public airport at which a Terminal Radar Service Area (TRSA) is currently in effect. Establishment of this Class C airspace area would require pilots to establish two-way radio communications with the air traffic control (ATC) facility providing air traffic services prior to entering the airspace and thereafter maintain those communications while within a Class C airspace area. Implementation of the Class C airspace area would promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area.

DATES: Comments must be received on or before February 15, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC–200], Airspace Docket No. 92–AWA–2, 800 Independence Avenue SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, 1601 Lind Avenue SW., Renton, WA 98055–4056.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 276–9230.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasons regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–AWA–2." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates and Model B, the Airport Radar Service Area (ARSA) configuration, was recommended by a consensus of the task group.

The FAA published NAR Recommendation 1–2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83–9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining ARSA airspace and establishing air traffic rules for operation within such an area.

Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, Columbus, OH, and the Baltimore/Washington International Airports (50 FR 9250; March 6, 1985). The FAA stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those that were included in the TRSA replacement program. The task group recommended that these criteria include, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. These criteria have been developed and are being published via the FAA directives system (Order 7400.2C).

Airspace Reclassification, effective September 16, 1993, reclassified ARSA's as Class C airspace areas. This change in terminology is reflected in the remainder of this NPRM.

The FAA has established Class C airspace areas at 121 locations under a paced implementation plan to replace TRSA's with Class C airspace areas. This is one of a series of notices to implement Class C airspace areas at locations with TRSA's or locations without TRSA's that warrant implementation of a Class C airspace area. This notice proposes to establish a Class C airspace area at a location that was identified as a candidate for an ARSA (Class C airspace area) in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the **Federal Register**.

The Billings Logan International Airport is a public-use airport with an operating control tower served by a Level II Terminal Radar Approach Control (TRACON), at which a TRSA is in effect. A TRSA consists of the airspace surrounding a designated airport where ATC provides separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulations and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's.

The Billings Logan International Airport is a major terminal hub that primarily serves the States of Montana, Wyoming, and the Dakotas. Airport operations at Billings Logan International Airport consist primarily of large air carriers (turbojets), air freighters, corporate jets, air taxis (multi-engine turboprop and piston engine aircraft), and general aviation (GA) itinerant and training (multi-engine and single-engine) aircraft. An extensive lifeguard (helicopter and fixed-wing) operation is based at Billings Logan International Airport. The availability of instrument approach aids at Billings Logan International Airport attracts military (United States Air Force units) and civil (Rocky Mountain College aviation curriculum) entities alike.

The terminal air traffic environment is basically unencumbered by terrain and special use airspace restrictions. Aircraft operating under VFR that transit the Billings terminal area normally do so on random, flight-specific routes. There are no major "established" VFR routes to be considered.

On June 21, 1988, the FAA published a final rule, "Transponder with Automatic Altitude Reporting Capability Requirement (Mode C)" (Amendment No. 91–203; 53 FR 23356), which, among other amendments, revised § 91.24 of the Federal Aviation Regulations (14 CFR part 91). In pertinent part, that rule added § 91.24(b)(5)(ii), effective December 30, 1990, which required aircraft operating

in the airspace from the surface to 10,000 feet MSL within a 10-mile radius of any airport listed in newly designated Appendix D of part 91 to be equipped with an operable transponder with Mode C except when operating in the airspace below 1,200 feet AGL outside of the ATA. Logan International Airport, Billings, MT, and Hector International Airport, Fargo, ND, were the only airports listed. Aircraft which were not originally certificated with an engine-driven electrical system or which had not subsequently been certified with such a system installed, balloons, and gliders were excluded from this requirement. The preamble to this rule indicated that an airport would be considered as a candidate for this Mode C requirement if its annual enplaned passenger count exceeded 200,000. The preamble further stated that several airports exceeded the 200,000 annual enplaned passenger requirement, which had not been designated as, or planned for, an ARSA (including Billings, MT). The FAA examined the operations at this location and determined that the Mode C requirement should be established at Billings, MT, because this airport had experienced a significantly high number of passenger enplanements, and typically generated over 50,000 instrument operations per year.

The Proposal

The FAA is considering an amendment to parts 71 and 91 of the Federal Aviation Regulations (14 CFR parts 71, 91) to establish a Class C airspace area at the Billings Logan International Airport, Billings, MT. This location is a public airport with an operating control tower served by a Level II TRACON, at which a TRSA is in effect. The Billings Logan International Airport enplanement activity was more than 274,585 passengers for the calendar year 1991, which exceeds the minimum number of enplaned passengers necessary to qualify this location as a Class C airspace area candidate.

The FAA has previously published a final rule (50 FR 9252; March 6, 1985) that defined an ARSA (a Class C airspace area), and prescribed operating rules for aircraft, ultralight vehicles, and parachute jump operations in this airspace. The rule provides, in part, that all aircraft operating in a Class C airspace area must, prior to entering the Class C airspace area, establish two-way radio communications with the ATC facility providing air traffic services; and, while in the Class C airspace area, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the Class C airspace area, or a satellite airport with an operating control tower, two-way radio communications must be established and maintained with the control tower and thereafter as instructed by ATC while operating in the Class C airspace area. For aircraft departing a satellite airport without an operating control tower, and within the Class C airspace area, two-way radio communications must be established with the ATC facility having jurisdiction over the Class C airspace area as soon as practicable after departing (14 CFR 91.130).

Although the establishment of a Class C airspace area would additionally require aircraft operating within its boundary to be equipped with a Mode C transponder, Billings, already requires the use of that equipment pursuant to § 91.215(b)(5)(ii). However, under this proposal, balloons, gliders, and aircraft without electrical systems would no longer be excluded from the Mode C transponder requirement.

All aircraft operating within a Class C airspace area are required to comply with all ATC clearances and instructions (§ 91.129). However, the rule permits ATC to authorize appropriate deviations from any of the operating requirements of the rule when safety considerations justify the deviation and more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in a Class C airspace area may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR Task Group recommendation that each Class C airspace area be of the same airspace configuration insofar as is practicable. The standard Class C airspace area consists of that airspace within 5 nautical miles of the primary airport, extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviations from this standard have been necessary at some airports because of adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements. The proposed Class C airspace area for the Billings Logan International Airport would consist of that airspace extending upward from the surface to and including 7,700 feet MSL within a 5-mile radius of the airport, and that airspace extending upward from 4,900 feet MSL to and including 7,700 feet MSL within a 10-mile radius of the airport.

Definitions and operating requirements applicable to Class C airspace areas may be found in § 71.51 of part 71 and §§ 91.1 and 91.130 of part 91 of the Federal Aviation Regulations (14 CFR parts 71, 91). The coordinates for this Class C airspace area are based on North American Datum 83. Class C airspace area designations are published in paragraph 4000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class C airspace area listed in this document would be published subsequently in the Order.

Regulatory Evaluation Summary

The FAA has determined that this notice is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review). The anticipated costs and benefits associated with this notice are summarized below. (A detailed discussion of costs and benefits is contained in the full evaluation in the docket for this notice.)

Costs

The FAA has determined that the establishment of the proposed Billings Class C airspace area would impose a one-time FAA administrative cost of $535 (discounted, 1992 dollars). For the aviation community (namely, aircraft operators and fixed-based operators), the NPRM would impose only negligible costs. The potential costs of the proposed Class C airspace area are discussed below.

1. Potential FAA Administrative Costs (air traffic controller staffing, controller training, and facility equipment costs).

For the proposed Class C airspace area (and the Class C airspace area program in general), the FAA does not expect to incur any additional costs for ATC staffing, training, or facility equipment. The FAA is confident that it can handle any additional traffic that would participate in radar services at the proposed Class C airspace area through more efficient use of personnel at the current authorized staffing level. The FAA expects to train its controller force at Billings in Class C airspace area procedures during regularly scheduled briefing sessions routinely held at Billings. Thus, no additional training costs are expected. Modification of the computer software used to operate radar equipment may be necessary, but this has not been necessary to date. Previously adopted plans to replace or modify older existing equipment may be

rescheduled to accommodate the Class C airspace area program. However, no significant new equipment requirements are anticipated.

2. Other Potential FAA Administrative Costs (revision of charts, notification of the public, and pilot education).

Establishment of Class C airspace areas throughout the country has made it necessary, and will continue to make it necessary, to revise sectional charts to remove existing airspace depictions and incorporate the new Class C airspace area boundaries. The FAA currently revises these sectional charts every six months. Changes of the type required to depict Class C airspace areas are made routinely during these charting cycles, and can be considered an ordinary operating cost. Thus, the FAA does not expect to incur any additional charting costs as result of the proposed Billings Class C airspace area. Further, pilots would not incur any additional costs obtaining current charts depicting Class C airspace areas because they should be using only the most current charts.

The FAA holds an informal public meeting at each proposed Class C airspace area location. These meetings provide pilots with the best opportunity to learn both how a Class C airspace area works and how it would affect their local operations. The expenses associated with these public meetings are incurred regardless of whether a Class C airspace area is ultimately established and are therefore considered routine FAA costs. If the proposed Billings Class C airspace area does become a final rule, the FAA would distribute a Letter To Airmen to all pilots residing within 50 miles of the Billings Class C airspace area that would explain the operation and airspace configuration of Class C airspace areas. The Letter to Airmen cost would be approximately $535. This one-time cost would be incurred upon the establishment of the proposed Class C airspace area.

3. Potential Costs to the Aviation Community (circumnavigation delays, and radio communications).

The FAA anticipates that some pilots who currently transit the terminal area without establishing radio communications or participating in Stage III services may choose to circumnavigate the proposed Class C airspace area. However, the FAA contends that these operators could circumnavigate the Class C airspace area without significantly deviating from their regular flight path. They could also remain clear of the proposed Class C airspace area by flying above the ceiling (7,700 feet MSL) or under the outer floor (4,900 feet MSL). Because the Billings Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facility lies within the proposed Class C airspace area, the FAA believes pilots overflying the VORTAC would either contact Billings Approach Control for permission to transit the airspace area or fly over the airspace area above 7,700 feet MSL. The small deviations that would result from the establishment of the Billing Class C airspace area would have a negligible cost impact on nonparticipating aircraft and GA aircraft operations because of the small deviations from current flight paths that these operators would make.

The FAA assumes that nearly all aircraft operating in the vicinity of the proposed Class C airspace area already have two-way radio communications capability and Mode C transponders. All aircraft (except those without an electrical system, balloons, and gliders) flying in the vicinity of the Billings Logan International Airport have been required (under 14 CFR 91.215(b)(5)(ii)) to have a Mode C transponder since December 30, 1990. Aircraft with Mode C transponders are likely to be equipped with communications radios as well because these radios are generally considered a more basic or essential piece of avionics equipment. Since the cost of the Mode C requirement was already addressed in the Mode C Rule, it is not considered separately here in order to avoid double-counting. The rule is expected to have some economic impact on aircraft without electrical systems, including gliders and balloons, since these aircraft are currently exempt from the Mode C requirement at Billings. It is estimated that the overall impact would be very slight, however, since there are not many of these aircraft. The FAA seeks comments on this impact.

The establishment of this Class C airspace area is not expected to have any adverse impacts on the operations of the three small satellite airports located in the vicinity of Billing Logan International Airport. None of these airports are located within the surface area of the Class C airspace area. Most pilots using these airports would probably circumnavigate the Class C airspace area and therefore not be required to participate.

Benefits

The benefits of the proposed Billings Class C airspace area would be enhanced aviation safety (in terms of a lowered risk of midair collisions) and improved operational efficiency (in terms of higher air traffic controller productivity with existing resources). These potential benefits are difficult to quantify in monetary terms. Thus, such benefits have been analyzed in qualitative terms, as explained in the following sections.

The National Airspace Review Task Group (NAR) found that airspace users, especially GA users, encountered significant problems with terminal radar services. Different levels of radar service offered within terminal areas caused confusion, and users were not always certain what restrictions and privileges existed. The standardization and simplification of operating procedures provided by the Class C airspace areas are expected to alleviate many of these problems. As both pilots and controllers become more familiar with the Class C airspace area operating procedures, all IFR and VFR traffic are expected to move as efficiently and expeditiously as it did under Stage III service. These benefits of the Class C airspace area program cannot be specifically attributed to individual airports, but rather will result from the overall improvements in terminal area ATC procedures realized as Class C airspace areas are implemented throughout the country. Establishment of the proposed Billings Class C airspace area would contribute to these overall improvements.

The proposed Class C airspace area would generate potential safety benefits in the form of lowered risks of midair collisions due to the increase of controlled airspace around Billings. Because of the proactive nature of the proposed Class C airspace area, the potential safety benefits are difficult to quantify in monetary terms. Based on conditions that indicate an increased probability of a midair collision at Billings, the FAA is proposing to establish a Class C airspace area there to prevent the development of a potential safety problem. These conditions are an increased volume of passenger enplanements and an increased complexity of aircraft operations at Billings.

The volume of passenger enplanements at Billings is projected to increase. Enplanements at Billings for 1992 were 285,378 and are projected to be 397,000 by the year 2000. The number of aircraft operations at Billings is projected to increase from 112,000 in 1992 to 156,000 by the year 2000. The current volume of passenger enplanements have made Billings eligible to become a Class C airspace area.

The complexity of aircraft operations at Billings has also increased. Complexity refers to air traffic conditions resulting from a mix of

controlled or uncontrolled aircraft (pilots that are not in contact with ATC) that vary widely in speed and maneuverability. As this mix increases so does the potential for midair collisions.

The FAA has conservatively estimated that the Class C airspace area program would reduce the risk of midair collision by 50 percent at TRSA locations, based on before-and-after studies of near midair collision trends and radar track data from the original Class C airspace area locations, as well as a review of National Transportation Safety Board midair collision accident records from January 1978 to October 1984. This 50 percent reduction translates into one midair collision prevented nationally every one to two years. The quantifiable benefits of preventing a midair collision can range from less than $160,000, resulting from the prevention of a minor non-fatal accident between GA aircraft, to $313 million or more, resulting from the prevention of a midair collision involving a passenger jet airplane. Establishment of the proposed Billings Class C airspace area would contribute to this improvement in aviation safety. Ordinarily, the benefit of a reduction in the risk of midair collisions from establishing Class C airspace areas would be attributed entirely to the Class C airspace area program. However, an indeterminant amount of the benefits have to be credited to the interaction of the proposed Class C airspace area rule (and the Class C airspace area program in general) with the Mode C Rule, which in turn interacts with the Traffic Alert and Collision Avoidance System (TCAS) Rule. This is because the benefits of the proposed Billings Class C airspace area rule, as well as other designated airspace actions that require Mode C transponders, cannot be separated from the benefits of the Mode C and TCAS Rules.

The Class B airspace area and Class C airspace area programs (including the proposed Billings Class C airspace area), plus the Mode C and TCAS Rules, share potential benefits totaling $4.2 billion.

Comparison of Costs and Benefits

The FAA has determined that the proposed rule to establish a Class C airspace area at Billings would impose a negligible cost of $535 on the agency. When this cost estimate of $535 is added to the total cost of the Class B and Class C airspace area programs and the Mode C Rule and the TCAS Rule, the combined cost would still be less than their total potential safety benefits. The proposal would also generate some benefits in the form of enhanced operational efficiency. In addition, the proposal would only impose negligible costs on the aviation community. Thus, the proposed rule would be cost-beneficial.

International Trade Impact Assessment

The proposal would only affect U.S. terminal airspace operating procedures at and in the vicinity of Billings, MT. The proposal would not impose a competitive trade disadvantage on foreign firms in the sale of either foreign aviation products or services in the United States. In addition, domestic firms would not incur a competitive trade disadvantage in either the sale of United States aviation products or services in foreign countries.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

Under FAA Order 2100.14A entitled Regulatory Flexibility Criteria and Guidance, a significant economic impact means annualized net compliance cost to an entity, which when adjusted for inflation, is greater than or equal to the threshold cost level for that entity. A substantial number of small entities means a number that is not fewer than eleven and is more than one-third of the small entities subject to a proposed or existing rule.

For the purpose of this evaluation, the small entities that would be potentially affected by the proposed rule are defined as fixed-base operators, flight schools, agricultural operators, and other small aviation businesses located within 5 nautical miles of the center of the proposed Class C airspace area. The proposed Billings Class C airspace area, along with special conditions around Billings, could potentially impose certain costs on users. Some of the users and activities that may be affected are local fixed-base operators and airport operators, and various sport aviation interests (ballooning, parachuting, and gliding). The FAA may develop special procedures to accommodate these activities through local agreements between ATC and the affected organizations. For these reasons, the FAA does not expect any adverse impacts to occur as a result of the proposed Class C airspace area.

The FAA has determined that the proposed rule would not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

Federalism Implications

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

Conclusion

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed rule (1) is not a "significant rulemaking action" under Executive Order 12866; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is also certified that this proposed rule does not require preparation of a Regulatory Flexibility Analysis under the RFA.

List of Subjects

14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

14 CFR Part 91

Aircraft, Air traffic control, Aviation safety.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR parts 71 and 91 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 4000—Subpart C-Class C Airspace

* * * * *

ANM MT C Billings, MT [New]

Billings Logan International Airport
(lat. 45°48'30" N., long. 108°32'38" W.)

That airspace extending upward from the surface to and including 7,700 feet MSL within a 5-mile radius of the Billings Logan International Airport; and that airspace extending upward from 4,900 feet MSL to and including 7,700 feet MSL within a 10-mile radius of the airport.

* * * * *

PART 91—[AMENDED]

3. The authority citation for 14 CFR part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1742, 1502, 1510, 1522, and 2121 through 2125; articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

Appendix D—[Amended]

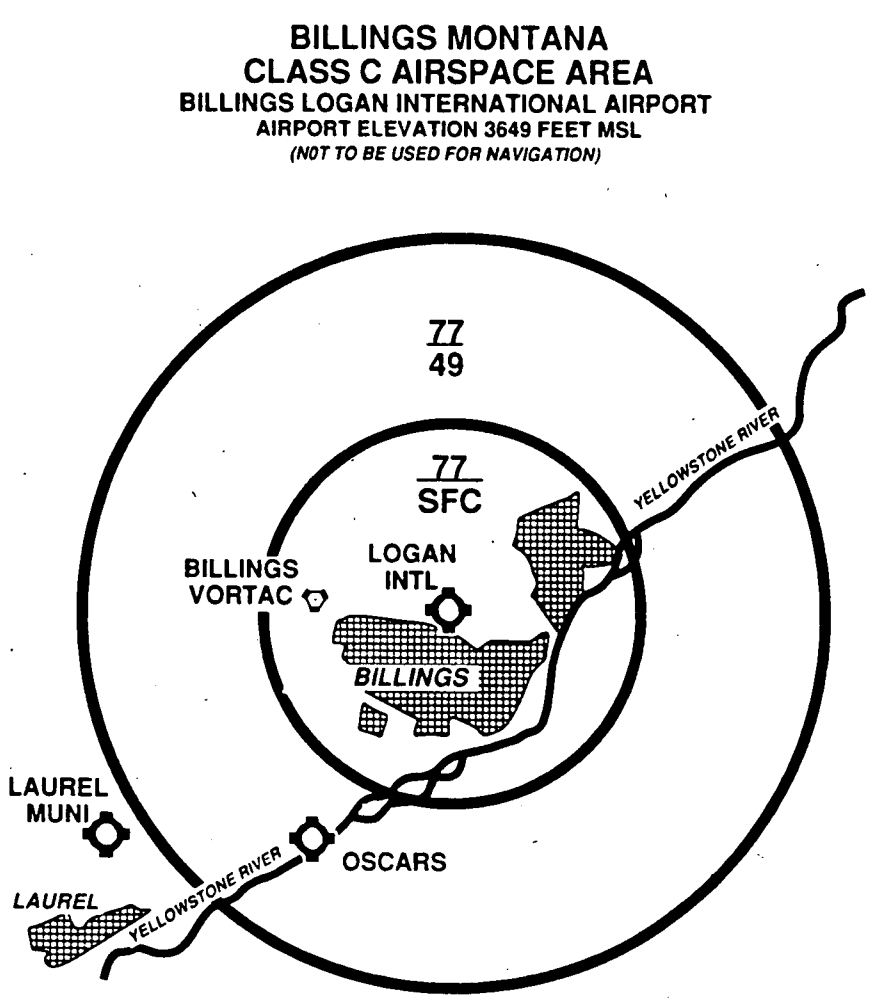
4. Appendix D, Section 2 to part 91 is amended by removing the paragraph beginning "The requirements," and the entry for Billings, MT (Logan International Airport).

Issued in Washington, DC, on December 7, 1993.

Willis C. Nelson,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

BILLING CODE 4910-13-M



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Branch
ATP-220

[FR Doc. 93-30845 Filed 12-16-93; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 118

Science, Mathematics, and Engineering (SME) Education

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: As required by "Defense Research by Historically Black Colleges and Universities," section 812 of Public Law 102-190, this document provides support to institutions of higher education through infrastructure assistance to historically Black colleges and universities and minority institutions. It also defines minority institutions and establishes procedures for DoD programs and activities in Science, Mathematics, and Engineering (SME) education.

DATES: Written comments on this proposed rule must be received by February 15, 1994.

ADDRESSES: Forward comments to the Office of the Director, Research and Laboratory Management, room 3E-118, The Pentagon, Washington, DC 20301-3080.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Herndon, (703) 614-0205.

SUPPLEMENTARY INFORMATION: It has been certified that this proposed rule is not a major rule or cause significant regulatory action. Analysis of the rule indicates that it does not (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 Executive Order 12866. It has been further certified that (1) This rule is not subject to the "Regulatory Flexibility Act," Section 601 of title 5, United States Code, because it will not have any economic impact on small entities, the

primary purpose being to establish policy and procedures relating to university research and education, and (2) 32 CFR part 118 does not impose any recordkeeping requirements under the "Paperwork Reduction Act of 1980," Sections 3501–3520 of title 44, United States Code.

List of Subjects in 32 CFR Part 118

Educational study programs, Educational facilities, Engineers, Grant programs-science and technology, Scholarships and fellowships, Science and technology.

Accordingly, title 32, subchapter B, is proposed to be amended to add part 118 to read as follows:

PART 118—SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Sec.
118.1 Purpose.
118.2 Applicability.
118.3 Definitions.
118.4 Policy.
118.5 Procedures.
118.6 Responsibilities.
118.7 Management framework.
118.8 Education involving defense laboratories. [Reserved]
118.9 Donation of excess research equipment. [Reserved]
118.10 NDSEG fellowships. [Reserved]
118.11 Infrastructure assistance to HBCU and MI.
118.12 Reporting of program and budget information. [Reserved]

Authority: 10 U.S.C. 135 and 2191.

§ 118.1 Purpose.

This part:

(a) Replaces DoD Instructions 3218.1 [1] and 3218.2.[2]

(b) Establishes a management framework for DoD programs and activities in Science, Mathematics and Engineering (SME) education.

(c) Establishes procedures for SME education activities involving DoD laboratories.

(d) Establishes procedures relating to the donation of defense laboratory excess research equipment.

(e) Establishes procedures for reporting of program and budget information for SME education, thereby implementing "Science Education Report," Section 501 of Public Law 101–589, 104 Stat. 2898, as it applies to the Department of Defense.

§ 118.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the United and Specified Commands, the Defense Agencies, and the DoD Field Activities. All of these entities are hereafter referred to collectively as "the DoD Components."

§ 118.3 Definitions.

(a) *Accredited.* Accredited means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(b) *Defense laboratory.* In accordance with "Definitions," Section 2199 of title 10, United States Code, a facility at which research and development activities are conducted and identified by the Secretaries of the Military Departments and Directors of the Defense Agencies as a defense laboratory.

(c) *DoD laboratory.* A defense laboratory as defined in paragraph (b) of this section, that is Government-Owned and Government-Operated.

(d) *Educational institutions.* School systems or agencies, colleges, universities, or any other nonprofit institutions involved in SME education. "Local education agency" has the meaning given in "Definitions," section 2891(12) of title 20, United States Code.

(e) *Government-owned, contractor-operated (GOCO) laboratory.* A defense laboratory, as defined in paragraph (b) of this section, that is Government-Owned and Contractor-Operator.

(f) *Historically Black colleges and universities.* Institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

(g) *Institutions of higher education.* Institutions that meet the definition of the term given in "Definitions," section 1201(a) of title 20, United States Code.

(h) *Minority institutions.* Minority institutions means an accredited college or university whose enrollment of a single minority or a combination of minorities (as defined in this section) exceeds 50% of total enrollment. Minority institutions shall also include Hispanic-serving institutions as defined in "Hispanic-serving institutions," Section 1059c(b)(a) of title 20, United States Code. The Department of Defense verifies this information from the data on enrollments (Integrated Postsecondary Education Data System—IPEDS) furnished by the institution to the Office for Civil Rights, Department of Education. Minority means an ethnic group underrepresented in science and engineering. The specific ethnic groups included are those for which the Department of Defense is able to verify enrollments from available data within the IPEDS. Those groups include American Indian/Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), and Asian/Pacific Islander.

(i) *Science, mathematics and engineering (SME) education.* Activities that, consistent with DoD missions, implement, support, or stimulate the instruction or study of science (physical, mathematical, environmental, life, and other sciences of interest to the Department of Defense) or engineering at any educational level, or that stimulate new or continued student interest in such study.

§ 118.4 Policy.

(a) Consistent with national policies on technology and education, and with DoD missions and authorities, it is the policy of the Department of Defense to conduct, promote, and sponsor SME education.

(b) This policy shall be implemented not only through direct instructional programs and educational support programs, but also encouraged through:

(1) Technology Base (6.1 Research and 6.2 Exploratory Development) programs at universities, colleges, and nonprofit institutions; and

(2) Judicious use of the resources of the DoD laboratories, consistent with the laboratories' performance of their primary missions.

§ 118.5 Procedures.

(a) Section 118.7 establishes a management framework for DoD activities in SME education, within which the DoD Components shall implement this part.

(b) Section 118.11 required by "Defense Research by Historically Black Colleges and Universities," section 812 of Public Law 102–190, 105 Stat. 1424, concerning infrastructure assistance to historically Black colleges and universities (HBCU) and to minority institutions (MI).

§ 118.6 Responsibilities.

Heads of DoD Components shall ensure compliance with this part within their respective Components. Other responsibilities are contained in the appendices to this part.

§ 118.7 Management framework.

(a) *Overview.* (1) Centralized leadership, oversight, and coordination of DoD's SME education activities is the responsibility of the OSD. To accomplish this, the management structure within the OSD has two elements, the Director of Defense

[1] Canceled documents. Copies may be obtained from Directives Division, rm 2A286, 1155 Defense Pentagon, Washington, DC 20301–1155.

[2] See footnote 1 to § 118.1(a).

Research and Engineering (DDR&E) and the Science and Engineering Education Panel (SEEP).

(2) Decentralized program execution of DoD's SME education activities takes place within the DoD Components.

(b) *Director of defense research and engineering (DDR&E).* The DDR&E serves as the principal advisor to and representative to the Secretary of Defense on matters relating to SME education and training, and acts on behalf of the Secretary of Defense to improve SME education.

(c) *Science and engineering education panel (SEEP).* (1) *General.* The SEEP is a coordination, review, and advisory body for the DDR&E. It is chaired by a designee of the DDR&E and is comprised of representatives of appropriate OSD offices and of DoD Components that conduct SME education activities.

(2) *Coordination functions.* The SEEP shall:

(i) Coordinate activities of DoD Components engaged in SME education. The panel will provide a forum for the DoD Components to exchange information about activities and to discuss problems and ideas for new programs.

(ii) Help coordinate DoD Components' activities with SME education activities of other Federal Agencies.

(4) *Review function.* The SEEP shall provide an annual review of DoD Components' SME education programs, to include an assessment of the programs' adherence to policies and an evaluation of effectiveness in meeting overall DoD objectives in SME education.

(4) *Advisory responsibilities.* The SEEP shall advise the DDR&E on actions the Department of Defense may take to improve SME education for long-term, national defense needs, including actions to:

(i) Change DoD policies and guidance.

(ii) Change DoD programs (including initiation or expansion of programs, as well as consolidation or termination of programs, if deemed appropriate to increase overall program efficiency or effectiveness).

(iii) Allocate or reallocate resources for SME education activities. The SEEP shall provide options and recommendations for decisions to be made through the Planning, Programming and Budgeting System.

§ 118.8 Education involving defense laboratories. [Reserved]

§ 118.9 Donation of excess research equipment. [Reserved]

§ 118.10 NDSEG fellowships. [Reserved]

§ 118.11 Infrastructure assistance to HBCU and MI.

(a) *Purpose.* This section is required by "Defense Research by Historically Black Colleges and Universities," Section 812 of Public Law 102–190, 105 Stat. 1424.

(b) *Policy.* (1) An objective of "Contract goal for small disadvantaged businesses and certain institutions of higher education," Section 2323 of title 10, United States Code, is to increase the participation of HBCU and MI in DoD programs where institutions of higher education participate. Accordingly, as a matter of policy, each DoD Component that provides support to institutions of higher education shall strive to increase the:

(i) Ability of HBCU and MI to participate in those SME education, research, and other programs where institutions of higher education participate.

(ii) Participation of HBCU and MI in such programs with a goal of 5 percent of the total level of activity performed by institutions of higher education.

(2) These goals apply to DoD Components' programs in which institutions of higher education, whether that participation is by contract, grant, or other agreement.

(c) *Procedures.* (1) To help attain the goals stated in paragraph (b)(1) of this section, DoD Components that provide support to institutions of higher education shall provide infrastructure assistance to HBCU and MI.

(2) Such infrastructure assistance may include support for:

(i) Establishing and enhancing undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

(ii) Making Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

(iii) Establishing partnerships between defense laboratories and HBCU and MI for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

(iv) Awarding scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

(v) Attracting and retaining faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

(vi) Equipping and renovating laboratories for the performance of defense research.

(vii) Expanding and equipping Reserve Officers Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

(viii) Providing assistance as the Head of the DoD Component determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

(3) In providing infrastructure assistance, the DoD Components shall, to the maximum extent practical, give preference to HBCU and MI that agree to bear a substantial portion of the cost associated with such assistance.

§ 118.12 Reporting of program and budget information. [Reserved]

Dated: December 13, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–30673 Filed 12–16–93; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AG47

Exclusions From Income

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations concerning exclusions from income. This amendment will implement an opinion of VA's General Counsel that the portion of the cash surrender value of a life insurance policy which represents a return of premiums should not be considered income under VA's improved pension program. The intended result is to ensure that countable income is correctly computed when VA determines entitlement to improved pension.

DATES: Comments must be received on or before January 18, 1994. Comments

will be available for public inspection until January 26, 1994. This amendment is proposed to be effective 30 days after date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this amendment to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection only in the Veterans Services Unit, room 170, at the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until January 26, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 233–3005.

SUPPLEMENTARY INFORMATION: In a recent opinion (O.G.C. Prec. 1–93), VA's General Counsel (GC) addressed the question of whether or not the proceeds of the cash surrender of life insurance policies should be considered countable income for the purposes of VA's improved pension program. The GC found that the maintenance of a life insurance policy involved two transactions: (1) Purchase of coverage during the period for which premiums are paid, and (2) accumulation of savings or investment. Upon surrender of the policy, the policy owner receives a refund of the accumulated investment (the premiums paid) plus interest that has accrued on the investment.

The GC determined that it would be consistent with VA's policy regarding exclusions from income to exclude that portion of the proceeds which represents a return of the owner's investment. We are therefore proposing to amend § 3.272 to exclude from income for improved pension purposes that portion of the proceeds from the cash surrender of a life insurance policy which represents a return of premiums. Interest that has accumulated on the investment will be considered income when paid, since that is an amount which is paid over and above the owner's investment.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: June 18, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is proposed to be amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.272, paragraph (q) and an authority citation are added to read as follows:

§ 3.272 Exclusions from income.

* * * * *

(q) *Cash surrender value of life insurance.* That portion of proceeds from the cash surrender of a life insurance policy which represents a return of insurance premiums.

(Authority: 38 U.S.C. 501(a))

[FR Doc. 93–30811 Filed 12–16–93; 8:45 am]

BILLING CODE 8320–01–U

POSTAL SERVICE

39 CFR Part 111

Special Bulk Third-Class Eligibility Restrictions

AGENCY: Postal Service.

ACTION: Proposal rule; extension of comment period.

SUMMARY: The Postal Service published in the **Federal Register** (58 FR 64918–64919) on December 10, 1993, a proposal to amend the Domestic Mail Manual by incorporating regulations implementing provisions H.R. 2403, the Treasury, Postal Service and General Appropriations Act for 1994, making certain specific types of matter ineligible to be mailed at the special bulk third-class postage rates for certain qualified nonprofit organizations. The Postal Service requested comments by January 10, 1994. Due to the needs of the mailing public, from whom several requests for additional time were received, the Postal Service is extending the comment period to February 9, 1994.

DATES: Comments on the proposed rule change must be received on or before February 9, 1994.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, room 8430, 475 L'Enfant Plaza, SW., Washington, DC 20260–2419. Copies of all written comments may be inspected and photocopied between 9 a.m. and 4 p.m., Monday through Friday, in room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Ernest Collins (202) 268–5316.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 93–30951 Filed 12–15–93; 8:45 am]

BILLING CODE 7010–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 40–1–5975; FRL–4815–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District, Sacramento Metropolitan Air Quality Management District, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) adopted by the Bay Area Air Quality Management District (BAAQMD) on March 4, 1992, by the Sacramento Metropolitan Air Quality Management District (SMAQMD) on February 23, 1993, and by the Ventura County Air Pollution Control District (VCAPCD) on January 10, 1989 and August 11, 1992. The California Air Resources Board submitted these revisions to EPA on three dates: March 26, 1990, November 12, 1992, and April 6, 1993. The revisions concern: Bay Area Air Quality Management District Rule 8–18, "Valves and Connectors at Petroleum Refinery Complexes, Chemical Plants, Bulk Plants, and Bulk Terminals"; Sacramento Air Quality Management District Rule 450, "Graphic Arts

Operations"; Ventura County Air Pollution Control District Rule 74.19, "Graphic Arts"; and Ventura County Air Pollution Control District Rule 74.7, "Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants". These rules control volatile organic compound (VOC) emissions from leaking valves and connectors at petroleum and petrochemical facilities and graphic arts and related coating facilities. The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPR) will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Comments must be received on or before January 18, 1994.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section II (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Erik H. Beck, Rulemaking II [A-5-3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1190.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the San Francisco Bay Area, the Sacramento Metropolitan Area, and the Ventura County Area. 43 FR 8964; 40 CFR 81.305. Because these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The San Francisco Bay Area is classified as moderate, the Sacramento Metropolitan Area is classified as serious, and the Ventura County Area is classified as severe[2]; therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on March 26, 1990, November 12, 1992 and April 6, 1993, including the rules being acted on in this document. This document addresses EPA's proposed action for Bay Area Air Quality Management District Rule 8-18, "Valves and Connectors at Petroleum Refinery Complexes, Chemical Plants, Bulk Plants, and Bulk Terminals"; Sacramento Air Quality Management District Rule 450, "Graphic Arts Operations"; Ventura County Air Pollution Control District Rule 74.19, "Graphic Arts"; and Ventura County Air Pollution Control District Rule 74.7, "Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants". These submitted rules were found to be complete on March 26, 1993, April 28, 1993, and June 20, 1993 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[3] and are being proposed for approval into the SIP.

These rules control volatile organic compound (VOC) emissions from leaking valves and connectors at petroleum refinery complexes, chemical plants, bulk plants, and bulk terminals (BAAQMD Rule 8-18); VOC emissions from graphic arts and related coating operations (SMAQMD Rule 450 and VCAPCD Rule 74.19); and VOC emissions from petroleum refineries and chemical plants (VCAPCD Rule 74.7). VOCs contribute to the production of ground level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary

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

[2] The San Francisco Bay Area, the Sacramento Metropolitan Area, and the Ventura County Area retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

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

sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to SMAQMD Rule 450 and VCAPCD Rule 74.19 is entitled, "Control of Volatile Organic Emissions From Existing Stationary Sources—Volume VIII: Graphic Arts—Rotogravure and Flexography (EPA–450/2–78–033)". The CTG applicable to BAAQMD Rule 8–18 and VCAPCD Rule 74.7 is "Control of Volatile Organic Compound Leaks From Synthetic Organic Chemical and Polymer Manufacturing Equipment (EPA–450/3–83–006)". Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

Bay Area Air Quality Management District Rule 8–18, "Valves and Connectors at Petroleum Refinery Complexes, Chemical Plants, Bulk Plants, and Bulk Terminals" includes the following significant changes from the current SIP:

- The scope of the rule has been broadened to include chemical plants, bulk plants, and bulk terminals.
- Exemptions were deleted for low vapor pressure valves or flanges, inaccessible valves and flanges, and instrument valves.
- A section referencing test methods has been added.
- Many definitions have been added to clarify the rule.
- Standards for repairable valves, new or replaced valves, repeat leakers, and liquid leaks have been added.
- The administrative requirements section has been revised.

Sacramento Metropolitan Air Quality Management District Rule 450, "Graphic Arts Operations" includes the following significant changes from the current SIP:

- Defining VOCs.
- Adding a monitoring and records section.
- Reducing the source exemption limit from 15 tons per year to 3.96 tons per year.
- Expanding the types of regulated sources to include lithographic and letterpress operations.
- Adding cleanup regulations.
- Adding test methods.
- Replacing outdated compliance schedules with compliance schedules for newly regulated sources.

Ventura County Air Pollution Control District Rule 74.7 includes the following significant changes from the current SIP:

- Operating requirements have been broadened to include requirements for open-ended valves and safety relief valves in gas or vapor service.
- Inspection requirements have been revised to reflect the increased number and type of leak inspections.
- Exemptions were added for safety relief valves.
- Operator Management Plan guidelines were added.
- Recordkeeping and Reporting sections were added for compliance demonstration.
- Several new definitions were added to clarify the rule.

Ventura County Air Pollution Control District Rule 74.19 is a new rule which was adopted to control emissions of volatile organic compounds from graphic arts operations and related coating processes.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, BAAQMD's Rule 8–18, SMAQMD's Rule 450, and VCAPCD's Rules 74.19 and 74.7 are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

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

Regulatory Process

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

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: December 2, 1993.

Felicia Marcus,

Regional Administrator.

[FR Doc. 93–30859 Filed 12–16–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 931226–3326; I.D. 113093A]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition to Emergency List North and South Umpqua River Sea-run Cutthroat Trout

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of finding.

SUMMARY: On August 19, 1993, NMFS received a petition from the Oregon Natural Resources Council and the Steamboaters, to emergency list North and South Umpqua River sea-run cutthroat trout (*Oncorhynchus clarki clarki*) and to designate critical habitat under the Endangered Species Act of 1973 (ESA). In accordance with section 4 of the ESA, NMFS has determined that an emergency that poses a significant risk to the well-being of the species does not exist.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 230–5430 or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1993, the Secretary of Commerce received a petition from the Oregon Natural Resources Council; Umpqua Valley Audubon Society; and The Wilderness Society to list North and South Umpqua River sea-run cutthroat trout, and to designate critical habitat under the ESA. On July 19, 1993, NMFS published (58 FR 38554) its intent to conduct a status review on North and South Umpqua River sea-run cutthroat trout. Information and comments received in response to the July 19, 1993, **Federal Register** notice are being considered as NMFS conducts the status review. NMFS intends to announce its determination on the North and South Umpqua River sea-run cutthroat trout petition prior to April 1, 1994.

Petition Received

The August 19, 1993 petition to emergency list North and South Umpqua River sea-run cutthroat trout sets forth in detail the petitioner's concern over ongoing and proposed timber harvest activities in the Tiller and North Umpqua Ranger Districts of the Umpqua National Forest and adverse impacts to sea-run cutthroat habitat. For the North Umpqua Ranger District, the "Citrus" timber sale was identified as one causing serious concern. For the Tiller Ranger District, the "Hamlin" and "Beaver Thin" timber sales were identified. In response to the petitioner's concerns, NMFS personnel initiated discussions with the U.S. Forest Service to determine the current status of these sales. The Citrus sale is now being harvested and the harvest is nearly complete. The Hamlin sale was withdrawn for the protection of the threatened northern spotted owl. The Beaver Thin sale has been awarded but the Forest Service has stated that the harvest will not go forward until a field study has been completed to assess its impacts and until recommended adjustments, if any, have been made. The field study is expected to be completed in early December.

Based upon the above considerations, NMFS does not find that an emergency situation exists. An emergency listing at this time is therefore not warranted.

Ongoing Status Review and Other NMFS Activities

Although NMFS has decided that an emergency listing is not warranted, it shares the petitioner's concern about actions which may lead to the decline of North and South Umpqua River sea-run cutthroat trout populations and will continue to work diligently before April 1, 1994.

Dated: December 9, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–30740 Filed 12–16–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 241
Friday, December 17, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Final Environmental Impact Statement for Nursery Pest Management, Pacific Northwest Region

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to a final environmental impact statement.

SUMMARY: The Forest Service will prepare a supplement to the final environmental impact statement (FEIS) for Nursery Pest Management in the Pacific Northwest Region (October 1989). The supplement proposes additional chemicals for use with the selected alternative, at the Wind River Nursery (Gifford Pinchot National Forest), Bend Pine Nursery (Deschutes National Forest), J. Herbert Stone Nursery (Rogue River National Forest) and The Dorena Tree Improvement Center (Umpqua National Forest). The Forest Service invites written comments on the supplement and the scope of the proposed action. In addition, the Forest Service gives notice of the full environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate in the process and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by February 1, 1994.

ADDRESSES: Send written comments to: Ed Olson, USDA, Forest Service, Wind River Nursery, Carson, Washington 98610; Nita Rauch, USDA, Forest Service, Bend Pine Nursery, Bend, Oregon 97701; Steven Feigner, USDA, Forest Service, J. Herbert Stone Nursery, Central Point, Oregon 97502 or Lee Riley, USDA, Forest Service, Dorena Tree Improvement Center, Cottage Grove, Oregon 97424.

FOR FURTHER INFORMATION CONTACT: Sally Campbell, USA, Forest Service, P.O. BOX 3623, Portland, Oregon 97208, phone (503) 326–7755.

SUPPLEMENTARY INFORMATION: The Nursery Pest Management Record of Decision (ROD) was signed October 31, 1989. No appeals were filed. In 1993, a supplement to the FEIS was done which added three chemicals to the list available for use at the Wind River nursery and added one chemical at J. Herbert Stone Nursery. No appeals were filed on the supplement.

This supplement is being prepared to keep the ROD and environmental analysis updated and current with pest management needs at the Wind River, Bend Pine, and J. Herbert Stone nurseries, and the Dorena Tree Improvement Center. The FEIS and the 1993 supplement to the FEIS will remain in effect and continue to be implemented during the preparation of this second supplement to the FEIS.

The primary objective of Forest Service nurseries is to produce seedlings of high quality and sufficient quantity to meet Forest Service reforestation needs. The use of modern pest management technology and products are necessary to meet this objective. Currently, the nurseries are implementing an Integrated Pest Management (IPM) approach utilizing all methods of pest control, including chemical pesticides approved for the sites. Recently, several pesticides, including the widely used fungicide benomyl, have been removed from the market necessitating replacement chemicals. Also, the nurseries are now growing more non-conifers (for example, hardwood and grass species) and need pesticides to treat diseases specific to those crops. To continue implementing the basic principles of IPM, it is necessary to consider augmenting the list of approved chemical pesticides periodically.

In preparing this draft supplement to the FEIS, the Forest Service will develop alternatives which address the addition of several chemical pesticides to the current list of approved pesticides identified in the FEIS and 1993 supplement to the FEIS. The Forest Service will conduct a site-specific risk assessment for each of the proposed chemicals as part of the supplement. Pesticides being considered are the following:

—Iprodione, mancozeb with thiophanate-methyl, propiconazole, and thiophanate-methyl (benomyl substitutes for use in control of conifer and non-confier diseases);
—Dodine (for use in the control of nonconifer diseases); and
—Bordeaux (for use in control of conifer and nonconifer diseases).

Public participation will be important during the analysis. The Forest Service will solicit information and seek comments by notifying individuals and organizations known to be interested, as well as affected publics and key contacts involved in the scope of the supplemental analysis. Input will be solicited through mailings and public meetings at the affected nurseries.

The draft supplement to the FEIS is expected to be filed with Environmental Protection Agency (EPA) and available to the public by April, 1994. The comment period on the draft supplement to the FEIS will be 45 days from the date the EPA notice of availability appears in the **Federal Register**. The final supplement to the FEIS is scheduled to be completed by June, 1994.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft supplement to the FEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft supplement stage but that are not raised until after completion of the final supplement to the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final supplement to the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft supplement to the FEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft supplement. Comments may also address the adequacy of the draft supplement to the FEIS or the merits of the alternatives formulated and discussed in the statement. Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

John E. Lowe, Regional Forester, Pacific Northwest Region, is the responsible official. The responsible official will consider reviewer's comments and environmental consequences discussed in the draft and final supplement to the FEIS, applicable laws, regulations, and policies in making a decision regarding this action. The decision and rationale for the decision will be documented in the Record of Decision. That decision will be subject to administrative appeal.

Dated: December 9, 1993.

Jerry L. Monesmith,

Acting Deputy Regional Forester.

[FR Doc. 93-30807 Filed 12-16-93; 8:45 am]

BILLING CODE 3510-11-M

CENTRAL INTELLIGENCE AGENCY

Freedom of Information Act Reading Room Availability

AGENCY: Central Intelligence Agency.

ACTION: Notice of availability.

SUMMARY: Copies of the following documents, as previously released pursuant to the Freedom of Information Act, 5 U.S.C. 552, are available for public inspection and copying pursuant to 5 U.S.C. 552(a)(2) and 32 CFR 1900.49:

HR-20, CIA Personnel Regulation
HR-7-6, Grievance Systems
HHB 45-4, Acquisition Handbook
CIA Contracting Manual

FOR FURTHER INFORMATION CONTACT: John H. Wright, Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505; Telephone: (703)351-2083.

Dated: December 3, 1993.

Frank J. Ruocco,

Deputy Director for Administration.

[FR Doc. 93-30810 Filed 12-16-93; 8:45 am]

BILLING CODE 6310-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing duty administrative Reviews

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with November anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: December 17, 1993.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) has received timely requests, in accordance with §§ 353.22(a) and 355.22(a) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements with November anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than November 30, 1994.

Antidumping duty proceedings	Period to be reviewed
Japan:	
Bicycle Speedometers	
A-588-038	
Cateye Co., Ltd	11/1/92-10/31/93
Japan:	
Light Scattering Instruments and Parts Thereof	
A-588-813	
Otsuka Electronics	11/1/92-10/31/93
Republic of Korea:	
Circular Welded Non-Alloy Steel Pipe	
A-580-809	
Dongbu Steel Co., Ltd	4/28/92-10/31/93
Dong-Il Steel Mfg. Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
Hyundai Pipe Co., Ltd.	
Korea Iron and Steel Co., Ltd.	
Korea Steel Pipe Co., Ltd.	
Pusan Steel Pipe Co., Ltd.	
Union Steel Mfg. Co., Ltd.	
Malaysia:	
Extruded Rubber Thread	
A-557-805	
Rubfil Sdn. Bhd	4/2/92-9/30/93
Heveafil Sdn. Bhd.	
Filati Lastex Elastofibre (Malaysia).	
Mexico:	
Circular Welded Non-Alloy Steel Pipe	
A-201-805	
Hylsa, S.A. de C.V.	4/28/92-10/31/93

Countervailing Duty Proceedings	Period to be Reviewed
Argentina:	
Oil Country Tubular Goods	
C-357-403	1/1/92-12/31/92

Interested parties must submit applications for disclosure under administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1) (1993).

Dated: December 13, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-30886 Filed 12-16-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-455-802]

Notice of Termination of Changed Circumstances Review: Certain Cut-to-Length Carbon Steel Plate From Poland

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 17, 1993.

FOR FURTHER INFORMATION CONTACT: Lori Way or Michael Ready, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0114 or (202) 482–2613, respectively.

BACKGROUND: In the final determination of certain cut-to-length carbon steel plate from Poland (investigation), we summarized the Department of Commerce's (Department) findings that recent changes in Poland's economy indicated that, by 1992, Polish domestic prices were market driven. Therefore, we reversed our previous determinations that Poland was a nonmarket economy country (NME), pursuant to section 771(18)(C) of the Act. (See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Poland, 58 FR 37205 (July 9, 1993).)

However, the Department was unable to conduct a market economy analysis in the recently-completed investigation due to a lack of information and time. Instead, the Department based its final determination on the NME factors of production methodology and stated its intention of recalculating a new deposit rate in a changed circumstances review.

On August 13, 1993, we initiated a changed circumstances review (58 FR 44166, August 19, 1993) to provide Huta Czestochowa (Czestochowa), the sole respondent, the opportunity to have a new duty deposit rate calculated using a market economy analysis of sales made during the same period examined in the investigation (January 1 through June 30, 1992). Czestochowa did not respond to the Department's questionnaire despite numerous extensions of time granted by the Department. Moreover, on November 30, 1993, Czestochowa requested termination of this review. Therefore, we have decided to terminate this review. The margin calculated for the final determination in the investigation, 61.98 percent, will remain in effect until and unless a new rate is calculated in any future administrative review.

Dated: December 13, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30885 Filed 12–16–93; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

Business Development Center Applications: Birmingham, AL

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program. The total cost of performance for the first budget period (12 months) from May 1, 1994 to April 30, 1995 is estimated at $169,125. The application must include a minimum cost-share of 15% of the total project cost through non-Federal contributions. The Federal amount includes $4,125 for an annual audit fee. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Birmingham, Alabama geographic service area.

The award number for this MBDC will be 04–10–94005–01.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC Program provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest points score will not necessarily receive the award.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, the MBDC will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

DATES: The closing date for application is January 19, 1994. Applications must be postmarked on or before January 19, 1994.

ADDRESSES: Atlanta Regional Office, U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., Suite 1715, Atlanta, Georgia 30308–3516, (404) 730–3300.

FOR FURTHER INFORMATION CONTACT: Robert M. Henderson, Acting Regional Director, Atlanta Regional Office, telephone (404) 730–3300.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. A pre-application conference to assist all interested applicants will be held on January 5, 1994, 9 a.m. at the following address:

U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1715, Atlanta, Georgia 30308–3516.

Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Costs

Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable

No award of Federal funds shall be made to an applicant who has outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements

A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 16, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: December 3, 1993.

Robert M. Henderson,

Acting Regional Director, Atlanta Regional Office.

[FR Doc. 93–30773 Filed 12–16–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[I.D. 120893C]

Gulf of Mexico Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council's Coral Advisory Panel (Panel) will meet on January 5, 1994, at the Council's conference room, Lincoln Center, suite 331, 5401 West Kennedy Boulevard, Tampa, FL; telephone: (813) 228–2815. The meeting will be held from 1 p.m. until 5 p.m.

The Panel will review Draft Amendment #2 to the Coral Fishery Management Plan which proposes to manage the harvest of "live rock" in Federal waters. Live rock is defined as an assemblage of marine organisms attached to a hard substrate, usually of calcarious origin.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Laura Mataluni at the above address by December 28.

FOR FURTHER INFORMATION CONTACT: Terrance R. Leary, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: 813–228–2815.

Dated: December 13, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–30760 Filed 12–16–93; 8:45 am]

BILLING CODE 3510–22–P

[I.D. 121093B]

South Atlantic Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Council's Coral Advisory Panel (Panel) will hold a meeting on January 6, 1994, from 1:30 a.m. until 5 p.m., at the Hawk's Cay Resort, Mile Marker 61, Marathon (Duck Key), Florida.

The panel members will discuss management regulations being considered for the harvest of live rock, living marine organisms attached to a hard substrate such as dead coral or rock used primarily in the aquarium trade industry.

The South Atlantic and Gulf of Mexico Councils (Councils) are considering several options for management of live rock in the Gulf of Mexico and South Atlantic federal waters.

These range from:

(1) A prohibition on, or phase-out of, harvest of live rock with possible provisions for aquaculture;

(2) Establishment of an annual quota or limited access management; or

(3) Implementation of a permitting system for wild harvest or aquaculture.

Upon conclusion of the discussion, the panel will develop recommendations for later presentation to the Councils.

The South Atlantic Council is scheduled to approve the draft amendment at the February 7–11 meeting in St. Augustine, Florida. The Gulf Council is scheduled to approve the amendment at its January 19 meeting in Clearwater Beach, Florida. The Councils will manage live rock under Amendment 2 to the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and South Atlantic (including The Draft Supplemental Environmental Impact Statement, Regulatory Impact Review and Initial Regulatory Flexibility Analysis). Please contact the South Atlantic Council for copies of the draft amendment.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Knight at the council address above by December 29.

FOR FURTHER INFORMATION CONTACT: Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council; One Southpark Circle, suite 306, Charleston, SC 29407–4699; telephone: (803) 571–4366.

Dated: December 13, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc, 93–30759 Filed 12–16–93; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

December 13, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea establishes import restraint limits for the period beginning on January 1, 1994 and extending through December 31, 1994.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 13, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I 200–223, 224pt. [1], 224–O [2], 225–229, 300–326, 360–363, 369–O [3], 400–414, 464–469, 600–629, 665–669 and 670–O [4], as a group.	395,424,341 square meters equivalent.
Sublevels within Group I	
200	408,410 kilograms.
201	1,641,220 kilograms.
218	8,278,597square meters.
219	7,538,234 square meters.
300/301	2,777,040 kilograms.
313	45,256,329 square meters.
314	25,232,944 square meters.
315	16,981,817 square meters.

Category	Twelve-month restraint limit
317/326	16,818,429 square meters.
363	969,202 numbers.
410	3,381,963 square meters.
604	336,212 kilograms.
607	993,432 kilograms.
611	3,311,439 square meters.
613/614	5,519,064 square meters.
617	4,576,785 square meters.
619/620	90,012,247 square meters.
624	8,076,680 square meters.
625/626/627/628/629.	14,128,805 square meters.
669–P[5]	2,032,229 kilograms.
Group II	
237, 239, 330–359, 431–459 and 630–659, as a group.	565,669,640 square meters equivalent.
Sublevels within Group II	
237	54,920 dozen.
239	917,260 kilograms.
333/334/335	248,359 dozen of which not more than 126,939 dozen shall be in Category 335.
336	52,485 dozen.
338/339	1,103,813 dozen.
340	573,983 dozen of which not more than 298,030 dozen shall be in Category 340–D[6].
341	169,819 dozen.
342/642	199,619 dozen.
345	107,233 dozen.
347/348	408,410 dozen.
350	15,264 dozen.
351/651	209,705 dozen.
352	163,187 dozen.
353/354/653/654	251,095 dozen.
359–H[7]	2,350,870 kilograms.
433	13,597 dozen.
434	6,974 dozen.
435	33,545 dozen.
436	14,200 dozen.
438	56,934 dozen.
440	193,829 dozen.
442	47,989 dozen.
443	322,056 numbers.
444	52,293 numbers.
445/446	51,008 dozen.
447	87,024 dozen.
448	33,760 dozen.
459–W[8]	91,324 kilograms.
631	275,539 dozen pairs.
632	1,459,643 dozen pairs.
633/634/635	1,338,713 dozen of which not more than 151,808 dozen shall be in Category 633 and not more than 565,738 dozen shall be in Category 635.
636	252,325 dozen.
638/639	5,212,078 dozen.
640–D[9]	3,060,451 dozen.
640–O[10]	2,550,376 dozen.
641	1,023,044 dozen of which not more than 38,643 dozen shall be in Category 641–Y[11].
643	757,920 numbers.
644	1,140,259 numbers.
645/646	3,505,712 dozen.
647/648	1,264,507 dozen.
650	22,338 dozen.
659–H[12]	1,245,721 kilograms.
659–S[13]	164,278 kilograms.
Group III	
831–844 and 847–859, as a group.	18,139,178 square meters equivalent.
Sublevel within Group III	
835	28,099 dozen.
Group IV	
845	2,315,056 dozen.
846	814,763 dozen.
Group VI	
369–L/670–L/870[14].	64,761,002 square meters equivalent.

[1] Category 224pt.: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[2] Category 224–O: all remaining HTS numbers in Category 224.

[3] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369–L); and 5601.21.0090.

[4] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[5] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[6] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[7] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[8] Category 459–W: only HTS number 6505.90.4090.

[9] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.

[10] Category 640–O: all HTS numbers except 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030 (Category 640–D).

[11] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[12] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

Imports charged to these category limits for the period January 1, 1993 through December 31, 1993, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the Bilateral Textile Agreement, effected by exchange of notes dated November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (Square meters equivalent/category unit)
333/334/335	33.75
369–L/670–L/870	3.8
633/634/635	34.1
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30883 Filed 12–16–93; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

December 13, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the

quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Cotton Textile Agreement, effected by exchange of notes dated January 28 and March 31, 1983, as amended and extended; and the Bilateral Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 7 and 16, 1984, as amended and extended, establish limits for the 1994 agreement year.

A copy of the bilateral agreements is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 58 FR 662645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreements, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 13, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Cotton Textile Agreement, effected by exchange of notes dated January 28 and March 31, 1983, as amended and extended; and the Bilateral Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 7 and 16, 1984, as amended and extended, between the Governments of the United States and Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200, 201, 219–220, 222–227, 229, 237, 239, 300, 301, 313–315, 317, 326, 330–342, 345, 347–354, 359–363, 369, 800; 810; 831–836, 838–840, 842–847, 850–852, 858, 859, 863, 870, 871 and 899, as a group.	51,000,695 square meters equivalent.
Sublevels in Group I	
237	61,000 dozen.
313	1,672,255 square meters.
314	1,254,191 square meters.
315	2,686,198 square meters.
333/833	106,389 dozen.
334	257,153 dozen of which not more than 36,320 dozen shall be in Category 334–K [1]
335/835	134,759 dozen.
338/339	581,592 dozen.
340	253,860 dozen.
341/840	106,389 dozen.
347/348	453,926 dozen.
350	27,000 dozen.
352	181,818 dozen.
359	652,174 kilograms.
361	515,000 numbers.
369	295,821 kilograms.
810	4,180,637 square meters.
836	50,000 dozen.
847	75,000 dozen.
Group II	
410, 414, 464, 465, 469, 611, 613–615, 617–622, 624–629, 665, 666, 669 and 670, as a group.	10,033,528 square meters equivalent.
Sublevels in Group II	
410	167,225 square meters.
465	129,600 square meters.
618	1,672,255 square meters.
666	116,306 kilograms.
Group III	
431–436, 438–440, 442–448, 459, 630–654 and 659, as a group.	56,418,244 square meters equivalent.
Sublevels in Group III	
433/434	7,085 dozen.
435	6,284 dozen.
442	9,819 dozen.
443	103,205 numbers.
444	33,654 numbers.
447/448	13,939 dozen.
459	34,019 kilograms.
633	44,199 dozen.
634	53,687 dozen of which not more than 36,604 dozen shall be in knit coats (Category 634–K) [2] and not more than 17,083 dozen shall be in non-knit coats (Category 634–W) [3].
635	88,751 dozen.
638/639	509,486 dozen.
640	80,225 dozen.
641	34,775 dozen.
643–K/644–K [4]	24,996 numbers.
643–W/644–W [5]	699,119 numbers.
645/646	279,341 dozen.
647	80,737 dozen.
648	57,746 dozen.
659	101,768 kilograms.
Level not in a group	
604	1,564,867 kilograms.

[1] Category 334–K: all HTS numbers except 6101.20.0010, 6101.20.0020 and 6112.11.0010.

[2] Category 634–K: only HTS numbers 6101.30.1000, 6101.30.2010, 6101.30.2020, 6101.90.0030, 6103.23.0036, 6103.29.1010, 6112.12.0010, 6112.19.1010, 6112.20.1010, 6112.20.1030 and 6113.00.0025.

[3] Category 634–W: only HTS numbers 6201.13.4015, 6201.13.4020, 6201.13.4030, 6201.13.4040, 6201.19.0030, 6201.93.2010, 6201.93.3000, 6201.93.3510, 6201.93.3520, 6201.99.0030, 6203.23.0050, 6203.29.2010, 6210.20.1020, 6210.40.1020, 6211.20.1515, 6211.29.2030 and 6211.33.0035.

[4] Category 643–K: only HTS numbers 6103.12.2000, 6103.19.1500 and 6103.19.4050; Category 644–K: only HTS numbers 6104.13.2000, 6104.19.1500 and 6104.19.2060.

[5] Category 643–W: only HTS numbers 6203.12.2010, 6203.12.2020, 6203.19.3000 and 6203.19.4050; Category 644–W: only HTS numbers 6204.13.2010, 6204.13.2020, 6204.19.2000 and 6204.19.3060.

Imports charged to these category limits for the period January 1, 1993 through December 31, 1993, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreements between the Governments of the United States and Romania.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (square meters equivalent/category unit)
341/840	12.1
433/434	35.2
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-30884 Filed 12-16-93; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People who are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 18, 1994.

ADDRESSES: Committee for Purchase from People who are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: On August 20, October 15 and November 5, 1993, the Committee for Purchase from People who are Blind or Severely Disabled published notices (58 FR 44329, 53503 and 59015) of the proposed addition to the Procurement List.

After consideration of the material presented to it concerning the capability of qualified nonprofit agencies to provide the services, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, U.S. Air Force Academy Cadet Dormitories, Building 2348, Sijan Hall, Building 2360, Vandenberg Hall, U.S. Air Force Academy, Colorado.

Janitorial/Grounds Maintenance, U.S. Border Support Building 501, 16 Heffernan Street, Calexico, California.

Janitorial/Minor Maintenance, Federal Building and U.S. Post Office, Tupelo, Mississippi.

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Louis R. Bartalot,

Associate Director for Facility Operations.

[FR Doc. 93-30822 Filed 12-16-93; 8:45 am]

BILLING CODE 6820-33-P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 18, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on the current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List for production by the nonprofit agency listed:

Commodities

Deodorant, General Purpose
6840-01-367-2912
6840-01-367-2913
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York

Disinfectant-Detergent, General Purpose
6840-01-367-2914
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York

Cleaning Compound, Rug and Upholstery
7930-01-367-2961
7930-01-367-2962

7930–01–367–2963
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Cleaning Compound, Septic Tank
7930–01–367–2967
7930–01–367–2968
7930–01–367–2970
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Cleaning Compound, Solvent-Detergent
7930–01–367–2965
7930–01–367–2966
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Cleaning Compound, Toilet Bowl
7930–01–367–0987
7930–01–367–2960
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Detergent, General Purpose
7930–01–367–2909
7930–01–367–2910
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Detergent, Laundry
7930–01–367–0988
7930–01–367–2907
7930–01–367–2908
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Dishwashing Compound, Hand
7930–01–367–2964
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Glass Cleaner
7930–01–367–0989
7930–01–367–2969
Nonprofit Agency: Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York
Grommet
8140–01–063–7681
Nonprofit Agency: Royal Maid Association for the Blind, Hazlehurst, Mississippi

Services

Food Service Attendant
Marine Corps Air Station
New River
Jacksonville, North Carolina
Nonprofit Agency: Coastal Enterprises of Jacksonville Jacksonville, North Carolina
Grounds Maintenance
Quarters and Common Areas
Fort Sam Houston, Texas
Nonprofit Agency: Goodwill Industries of San Antonio, San Antonio, Texas
Janitorial/Custodial
Social Security Administration
4377 Mission Street
San Francisco, California
Nonprofit Agency: Toolworks, Inc., San Francisco, California
Janitorial/Custodial
INEL Electronic Technology Center (ETC Building)
1 Energy Drive
Idaho Falls, Idaho
Nonprofit Agency: Development Workshop, Inc., Idaho Falls, Idaho
Janitorial/Custodial
Federal Building and Courthouse
300 Fannin Street
Shreveport, Louisiana
Nonprofit Agency: North Louisiana Goodwill Industries Rehabilitation Center, Inc., Shreveport, Louisiana
Warehouse Operation
Defense Contracting Management District South
805 Walker Street
Marietta, Georgia
Nonprofit Agency: Tommy Nobis Center, Inc., Marietta, Georgia

Louis R. Bartalot,

Associate Director for Facility Operations.

[FR Doc. 93–30823 Filed 12–16–93; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Air Force

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Draft Environmental Impact Statement, Draft Plan Amendment, and Realty Action; Elmore County, ID

AGENCY: Air Force, DOD; Bureau of Land Management, Interior.

ACTION: Notice of availability: Draft Environmental Impact Statement/Draft Plan Amendment/notice of realty action, Elmore County, Idaho.

SUMMARY: Pursuant to and in accordance with the National Environmental Policy Act (NEPA), the Council of Environmental Quality and Air Force Regulations and the Federal Land Policy and Management Act (FLPMA), a Draft Environmental Impact Statement (DEIS) has been prepared to analyze the potential environmental consequences of the Governor of Idaho's Proposed Training Range. The document presents an analysis of the potential environmental consequences of a set of interrelated proposals and alternatives to enhance training capabilities for the United States Air Force (USAF) and Idaho Air National Guard (IDANG) in southwestern Idaho. The State of Idaho proposes to establish, operate and maintain an air-to-ground tactical training range as part of an integrated set of training assets in the state. To provide sufficient land for the range, the state proposes to execute a land exchange for public lands under the administration of the Department of the Interior, Bureau of Land Management (BLM) and to purchase private lands necessary to complete the range.

In accordance with the FLPMA and implementing regulations (43 CFR part 1600 and 43 CFR part 2200), the BLM has included Draft Plan Amendments (DPA) and this Notice of Realty Action (NORA).

The following describes land that has been identified for possible disposal by exchange with the State of Idaho under section 206 of the FLPMA of 1976, 43 U.S.C. 1716:

Boise/Meridian

T. 10 S., R 2 W.,
Sec. 30, SW¼;
Sec. 31, W½;
Sec. 34, SE¼;
Sec. 35, SE¼, E½SW¼ and NW¼SW¼.
T. 10 S., R. 3 W.,
Sec. 25, E½SE¼ and SW¼SE¼;
Sec. 35, E½.
T. 11 S., R. 1 W.,
Sec. 6, lots 1 to 7, inclusive, SE¼NW¼, S½NE¼, E½SW¼ and SE¼;
Sec. 7, lots 1 to 4, inclusive, E½ and E½W½;
Sec. 18, lots 1 to 4, inclusive, E½ and E½W½.
T. 11 S., R. 2 W.,
Sec. 1, lots 1 to 4, inclusive, S½ and S½N½;
Sec. 2, lots 1 to 4, inclusive, S½ and S½N½;
Sec. 3, lots 1 to 2, inclusive, SE¼ and S½NE¼;
Sec. 6, lots 3 to 13, inclusive;
Sec. 9, S½SE¼;
Sec. 10, NE¼ and S½;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 21, NE¼ and N½SE¼;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, N½N½;
Sec. 35, all.
T. 11 S., R. 3 W.,
Sec. 1, lots 1 to 4, inclusive, S½ and S½N½;
Sec. 2, lots 1 to 2, inclusive, SE¼ and S½NE¼;
T. 12 S., R. 2 W.,
Sec. 1, lots 3 to 4, inclusive;
Sec. 2, lots 1 to 4, inclusive;
Sec. 5, S½SW¼;
Sec. 6, lots 10 to 11, inclusive, S½SE¼ and SE¼SW¼;
Sec. 7, lots 1 to 8, inclusive, E½ and E½W½;
Sec. 8, W½;
Sec. 17, W½;
Sec. 18, lots 1 to 8, inclusive, E½ and E½W½;
Sec. 21, S½SE¼;
Sec. 22, S½S½;
Sec. 23, S½S½;
Sec. 26, all;
Sec. 27, all;
Sec. 28, E½;
Sec. 33, N½NE¼;

Sec. 34, N½N½;
Sec. 35, N½N½.
T. 14 S., R. 3 W.,
Sec. 19, lots 3 to 4, inclusive, and E½SW¼;
Sec. 30, lots 1 to 4, inclusive, and E½W½;
Sec. 31, lots 1 to 2, inclusive, and E½NW¼.
T. 14 S., R. 4 W.,
Sec. 23, S½;
Sec. 24, S½;
Sec. 25, all;
Sec. 26, all;
Sec. 35, N½.
T. 15 S., R. 3 W.,
Sec. 26, S½N½ and S½;
Sec. 27, S½N½ and S½;
Sec. 28, S½N½ and S½;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all.
T. 16 S., R. 3 W.,
Sec. 3, N½;
Sec. 4, N½.

The area described contains 25,772.38 acres in Elmore County.

Publication of this notice in the **Federal Register** will segregate the public land described above from operation of the public land laws and from the mining and mineral leasing laws. Any subsequently tendered application, shall not be accepted, considered as filed and be returned to the applicant.

The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first. Final determination on disposal will wait completion of the EIS. The value of the land to be exchanged must be approximately equal, or the acreages will be adjusted to equalize the value upon completion of the final appraisal of the land.

Under the Governor of Idaho's Proposed Training Range, the Air Force will seek to obtain rights-of-way for small parcels of land and establish 32 emitter sites for locating simulated air defense systems. The Air Force also proposes to request that the Federal Aviation Administration (FAA) modify the special use airspace overlying these training assets.

The DEIS evaluates environmental impacts on: Airspace use, noise, safety, hazardous materials, earth resources, water resources, air quality, biological resources, cultural resources, land use, recreation and visual resources, transportation, and socioeconomics. Alternatives include three different sets of locations for the training range facilities in southwest Idaho. Impact of the No Action alternative is also considered. Public hearings on the DEIS are scheduled for January 11–15, 1994. The exact time and location will be published in the local media. Comments on the DEIS/DPA/NORA should be received by February 9, 1994. Written comments and inquiries on the document should be directed to Ms Brenda Cook, HQ ACC/CEVA, 129 Andrews St, ste. 102, Langley AFB, VA 23665–2769, telephone (804) 764–3056 or Mr. Butch Peugh, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706, telephone (208) 384–3076.

List of Subjects

Environmental protection, Notice of availability, Range.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

Michael J. Penfold,

Acting Deputy Director, Bureau of Land Management.

[FR Doc. 93–30763 Filed 12–16–93; 8:45 am]

BILLING CODE 3910–01–W

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The Ad Hoc Study Panel on USAF Space Launch Capabilities of the USAF Scientific Advisory Board will meet on 26–27 January 1994 at The ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of this meeting will be to initiate the SAB Ad Hoc Study on Assessment of USAF Space Launch Capabilities.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–30767 Filed 12–16–93; 8:45 am]

BILLING CODE 3910–01–W

USAF Scientific Advisory Board; Meeting

The ASC Advisory Group of the USAF Scientific Advisory Board will meet on 27–28 January 1994 at Wright-Patterson AFB, Ohio, from 8 a.m. to 5 p.m.

The purpose of this meeting will be to receive briefings on aeronautical systems development and to advise the ASC Commander.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–30768 Filed 12–16–93; 8:45 am]

BILLING CODE 3910–01–W

USAF Scientific Advisory Board; Meeting

The Education and Training Mission Panel of the USAF Scientific Advisory Board will meet on 11–12 January 1994 at Randolph AFB, Texas from 8 a.m. to 5 p.m.

The purpose of this meeting will be to receive briefings on education and training issues and advise the Air Education and Training Command (AETC) Commander.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–30766 Filed 12–16–93; 8:45 am]

BILLING CODE 3910–01–W

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Joint Modeling and Simulation Systems Panel will meet on 11–12 Jan 1994 from 8 a.m. to 5 p.m. at The ANSER Corp., VA, instead of the previously scheduled meeting on 16–17 Dec 1993 at the Pentagon.

The purpose of this meeting is to receive briefings, and hold discussions and begin report writing on projects related to joint modeling and simulation systems. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–30771 Filed 12–16–93; 8:45 am]

BILLING CODE 3910–01–W

Privacy Act of 1974; Delete Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Delete systems of records.

SUMMARY: The Department of the Air Force proposes to delete six systems of records notices to its inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletions will be effective December 17, 1993.

ADDRESSES: Send comments to the Assistant Air Force Access Programs Officer, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Gibson at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: The complete inventory of Department of Air Force system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

Dated: December 13, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F030 AFIS C

SYSTEM NAME:

Intelligence Applicant Files *(February 22, 1993, 58 FR 10315).*

Reason: System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system have been destroyed.

F200 AFIS A

SYSTEM NAME:

Security Files for Foreign Intelligence Collection *(February 22, 1993, 58 FR 10501).*

Reason: System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system have been destroyed.

F200 AFIS B

SYSTEM NAME:

DIA Program for Foreign Intelligence Collection *(February 22, 1993, 58 FR 10501).*

Reason: System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system have been destroyed.

F215 AFA A

SYSTEM NAME:

Library Authorized Patron File *(February 22, 1993, 58 FR 10511).*

Reason: System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system are covered in records system F215 AFMWRSA A, published May 19, 1993, 58 FR 29207.

F215 AFAA B

SYSTEM NAME:

Library/Special Collection Records *(February 22, 1993, 58 FR 10512).*

Reason: System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system are covered in records system F215 AFMWRSA A, published May 19, 1993, 58 FR 29207.

F215 AU A

SYSTEM NAME:

Air University (AU) Library Patron Database *(February 22, 1993, 58 FR 10513).*

Reason: System is no longer needed. There are no plans to reinstate this system in the future. Records maintained in this system are covered in records system F215 AFMWRSA A, published May 19, 1993, 58 FR 29207.

[FR Doc. 93–30809 Filed 12–16–93; 8:45 am]

BILLING CODE 5000–04–F

Department of the Army

Final Notice of Policy Change Concerning the Transloading of Department of Defense (DOD) Arms, Division 1.1, 1.2, 1.3 Ammunition and Explosives

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice.

SUMMARY: MTMC is instituting a new policy concerning the transloading of arms, division 1.1, 1.2, and 1.3 ammunition and explosives shipments. In the case of truckload shipments, these commodities will not be off-loaded or transferred en route except in cases of emergencies. In the case of less-than-truckload shipments, transloading will be kept to a minimum and performed only in a bona fide terminal or carrier facility.

EFFECTIVE DATE: January 18, 1994.

ADDRESSES: Commander, Military Traffic Management Command, ATTN: MTOP–QEC, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Stachkunas, (703) 756–1292.

SUPPLEMENTARY INFORMATION: MTMC published notice of proposed policy change concerning the Transloading of DOD Arms, Division 1.1, 1.2, 1.3 Ammunition and Explosives in the **Federal Register,** 58 FR 47717, 10 September 1993. MTMC requested that any comments be submitted by 12 October 1993.

Comments:

Three comments were received.

Comment

Two comments concurred with proposed policy change, but added that the possibility of mishandling, accountability, and exposure to terrorists and vandals must be minimized.

Response

MTMC believes this policy change embraces these comments by reducing the risk due to mishandling, terrorism or vandalism by avoiding the transloading of truckload shipments and minimizing transloading of less-than-truckload shipments of DOD arms, Division 1.1, 1.2, 1.3 Ammunition and Explosives.

Comment

One comment was concerned with the use of the word "minimum" in the middle of paragraph. The respondent expressed that the word "minimum" is not definitive and subject to individual interpretation, and could cause undue hardship on the carrier industry. The respondent suggested the sentence be amended to read, "on less-than-truckload shipments, loading and unloading of explosives will be confined to the consolidation of compatible shipments as necessitated by performing normal consolidated operations, and will be performed in a bona fide terminal or carrier facility."

Response

MTMC considered the respondent's concerns, but has decided to keep the word "minimum" in the policy change. Allowing transloading to be part of "normal consolidated operations" makes it routine rather than minimal. The purpose of this policy is to reduce the loading and unloading of explosives in transit to an absolute minimum.

Words of Issuance

For reasons set out in the preamble, Section 7g, Safety and Security, of "The Agreement between the Military Traffic Management Command and Motor Common Carriers Governing the transportation of Ammunition and

Explosives, Class A and B for and on behalf of the U.S. Department of Defense" is changed to read as follows:

g. Shipments of Department of Defense (DOD) Arms, division 1.1, 1.2, and 1.3 ammunition and explosives will be moved in direct single service, as outlined in Section 2 (Rules: Security Services) of the MTMC Freight Traffic Rules Publication No. 1A. Truckload shipments of DOD arms, division 1.1, 1.2, 1.3, ammunition and explosives will not be off-loaded or transferred to another vehicle en-route except in emergencies (as defined in 49 Code of Federal Regulations 390.5). On less-than-truckload shipments, loading and unloading of explosives will be kept to a minimum and will be performed in a bona fide terminal or carrier facility. If transloading less-than-truckload shipments is necessary, or if there is a change in equipment or driver after a shipment leaves origin, all drivers, tractors, and trailers must meet or exceed the inspection requirements of DD Form 626 (Motor Vehicle Inspection Report and 49 CFR). In addition, upon transloading the equipment, the carrier accepts liability for the integrity of the shipment and its blocking and bracing. Any failure to comply with the aforementioned will be cause for carrier performance action.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–30734 Filed 12–16–93; 8:45 am]

BILLING CODE 5000-03-M

Supplemental Notice of Intent to Prepare a Draft Environmental Impact Statement and Notice of Preparation to Prepare a Draft Environmental Impact Report for the Humboldt Harbor and Bay Deepening Project, Humboldt County, CA

AGENCY: U.S. Army Corps of Engineers, San Francisco District, DoD.

ACTION: Supplemental notice of intent.

SUMMARY: Proposed Action. The Corps of Engineers (Corps) is conducting a Feasibility Study of navigation improvements for commercial deep draft vessels in Humboldt Harbor and Bay. The primary objective of this study is to investigate commercial deep draft vessel navigation problems in the Humboldt Harbor and Bay Area, identify potential solutions to these problems, and determine whether Federal participation is justified in the implementation of measures developed to solve commercial deep draft navigation problems in Humboldt Harbor and Bay. This information will be published in a Feasibility Report and joint EIS/EIR. The Humboldt Bay Harbor, Recreation, and Conservation District (HBHRCD) is the lead agency under the California Environmental Quality Act (CEQA) and the Corps of Engineers is the lead agency under the National Environmental Quality Act (NEPA) for the deepening and widening of navigation channels in Humboldt Harbor.

An earlier Notice of Intent (NOI) was circulated on August 28, 1990, and two public workshops and EIS scoping meeting were held on September 12, 1990 to solicit agency and public comments on the project. This supplemental NOI and Notice of Preparation (NOP) is being circulated to acknowledge the need to do an EIR, which addresses CEQA, and an EIS, which addresses NEPA requirements respectively. This supplemental NOI and NOP considers using the Humboldt Open Ocean Disposal Site (HOODS) for dredged material disposal and in addition, the potential use of two upland disposal sites and a beach site located on the Samoa Penninsula.

FOR FURTHER INFORMATION CONTACT: For further information contact Ms. Tamara Terry, USAED, San Francisco, 211 Main Street rm #918, 94105–1905, telephone (415) 744–3341.

SUPPLEMENTARY INFORMATION: Comments were received from both the U.S. Fish and Wildlife Service (Service) and the California Coastal Commission (Commission) on the earlier NOI circulated on August 28, 1990. In addition to the conventional items requested in an EIR/EIS (See "Environmental Impacts of the Project" section), the Service requested the following be addressed and provided in the Draft EIS/EIR: (1) Assessment of the direct, indirect, and cumulative impacts of the proposed project on fish, wildlife, and their habitats, both locally and regionally; (2) Assessment of the indirect effects of foreseeable future development (e.g., onshore facilities) associated with improved navigability and the potential effects of increased vessel traffic with the implementation of the proposed project; and (3) A complete proposal to fully compensate for any losses, together with monitoring and contingency provisions. The Commission requested the following concerns be addressed and provided in the Draft EIS/EIR: (1) Determination of the types of dredged materials which would be encountered with the proposed Humboldt Harbor and Bay Deepening Porject, and any toxics associated with this dredged material; (2) Alternatives analysis of any and all dredged material disposal sites being considered for the proposed project; (3) Identification of any disposal sites for the dredged material and any associated effects on the littoral system brought on by the disposal of sand and any impacts to the shoreline morphology (e.g., erosion/accretion trends); (4) Potential impacts of the disposal of any fine dredged materials which may be toxic; and (5) Provide information as to the effects of the channel deepening on the overall dynamics of the harbor shoaling process, and whether the deepened channels will disturb the current equilibrium of the process such that subsequent maintenance dredging will be needed in order to maintain the new channel depth. The EIS/EIR will address the concerns expressed by the Service and Commission and all written comments from concerned individuals and agencies.

Alternatives

This study involves proposed deep draft navigation channel improvements to the existing Humboldt Harbor and Bay project. Deep draft navigation channel improvements would consist of channel deepening, selective channel widening, and turning basin improvements. There are two study alternatives presently being considered—a Structural Alternative, and the No Action Alternative. The Structural Alternative addresses deepening and selectively widening the existing Bar, Entrance, and North Bay (including the Samoa and Outer Eureka) Channels. Alternative Channel depths to be investigated are -48 feet, -50 feet, and -52 feet mean lower low water (MLLW) at the Bar and Entrance channels with corresponding alternative depths of -38 feet, -40 feet, and -42 feet MLLW, respectively, for the North Bay, Samoa, and Outer Eureka Channels. In addition to channel deepening the study includes widening of the following reaches: The Entrance channel would be widened on the north side of the channel from the jetty heads through the "middle ground" to the turn into the North Bay channel (the proposed widening ranges from 275 feet in the Entrance channel to 200 feet in the "middle ground" area); the Entrance Channel is moved north and a way from the South Jetty by 100 feet; and also, the entrance to the existing Samoa Channel turning basin would be realigned to facilitate safer use of the turning basin. The deepening and widening of the Fields Landing Channel, and the creation of a new turning basin at the intersection of the Samoa and Eureka Channels, previously discussed in the original NOI, are no longer being considered as part of this study.

A number of alternatives are under consideration for disposal of the dredged material. Dredged material suitable for unconfined aquatic disposal could be disposed of at either the Humboldt Open Ocean Disposal Site (HOODS), the "Superbowl" land site, or a beach site. Dredged material unsuitable for unconfined aquatic disposal is being considered for disposal at either the "Superbowl" site or the Louisiana Pacific (LP) site. The HOODS is located approximately 4 nautical miles west of the jetty heads, and is presently used for the Spring and Fall maintenance dredging of the Humboldt Bay navigation channels. The "Superbowl" site is an approximately 60-acre site designated as a dredged material disposal site and was used as an upland disposal site in the 1979 deepening of navigation channels in the Humboldt Bay and Harbor. The Louisiana Pacific (LP) site is a 23-acre parcel with an approximately 12-acre upland site historically used as a dredged material disposal site by LP. The upland disposal site selected for any unsuitable dredged material would depend upon the following: the nature of the sediments dredged and the sediments that the upland site can accept, the capacity available at each site, and any environmental and economic factors involved with utilization of either of the upland sites.

Scoping

The San Francisco District, Corps of Engineers, and the Humboldt Bay Harbor, Recreation and Conservation District invite and encourage the agencies and public to provide written comments on the proposed project. This Supplemental NOI and NOP will be directly mailed to all Federal, State, and local agencies, organizations, groups, and interested individuals currently on the project mailing list.

Your views as to the scope and content of the environmental information are important to the preparation of the study report. To be most helpful, the scoping comments should clearly describe specific environmental issues or topics which the commentor believes the document should address. Written statements should be mailed no later than 30 (thirty) days from the date of this supplemental NOI and NOP to the U.S. Army Corps of Engineers, 211 Main Street, Rm #918, San Francisco, CA 94105–1905, ATTN: Tamara Terry, Environmental Branch.

Potential environmental impacts to be addressed in this joint EIS/EIR include:

(1) Water quality (sediment sampling and analysis);

(2) Fish and wildlife resources and habitat;

(3) Endangered species concerns (i.e., Section 7 of the Endangered Species Act)

(4) Estuary and ocean shoaling

(5) Cultural/historic resources

(6) Commercial navigation

(7) Compliance with applicable laws, regulations, land use plans; etc.

The EIS/EIR will be used as the primary information document to secure concurrence in a Federal Coastal Zone Consistency Determination. In addition, the EIS/EIR will be used by the local sponsor to meet its responsibilities under the California Environmental Quality Act (CEQA), and may also be used by the North Coast Regional Water Quality Control Board to meet its responsibilities under the same Act. Other reviews in which the EIS/EIR may be a secondary source of information are: Fish and Wildlife Coordination Act, Marine Protection, Research and Sanctuaries Act, Endangered Species Act, Clean Air Act, Clean Water Act, and "trustee agency" reviews by the State of California.

The Corps expects to complete preparation of the draft Feasibility Report and EIS/EIR and have review copies of it available by mid-year of 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–30735 Filed 12–16–93; 8:45 am]

BILLING CODE 3710–SF–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by December 27, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed by Cary Green, Department of Education, 400 Maryland Avenue SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 401–3200.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: December 14, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Expedite.

Title: The Direct Student Loan Quality Assurance Planning Guide (Phase I).

Abstract: This collection will be used to provide participating institutions with a structured approach to help them improve quality in the delivery of student financial aid. It will also be used to establish quality improvement programs, monitor their own accuracy rates, and design and implement corrective actions to reduce any errors. The Department will use the information for program management, to ensure equal distribution of federal and institutional funds, and for compliance with federal legislation.

Additional Information: An expedited review is requested in order to have sufficient time to prepare the survey for mailout and for training of

schools. We are requesting OMB clearance by December 27, 1993.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

Reporting Burden:

Responses: 150

Burden Hours: 12,000

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0.

[FR Doc. 93-30819 Filed 12-16-93; 8:45 am]

BILLING CODE 4000-01-M

[CFDA Number: 84.267]

State Postsecondary Review Program; Notice Extending the Closing Date for Submission of an Agreement To Participate in the State Postsecondary Review Program With Fiscal Year 1993 Funds

DEADLINE FOR SUBMISSION OF PLAN AND BUDGET: On July 14, 1993, a notice was published establishing closing dates for submitting an application and an agreement to participate in the State Postsecondary Review Program in fiscal year 1993. The purpose of this notice is to extend the closing date for submitting an agreement to participate in the State Postsecondary Review Program with fiscal year 1993 funds. The action is taken to allow a state that is not participating to clarify technical issues that, once clarified, will allow it to submit by the closing date an agreement that may be acceptable to the Secretary. The closing date for submission of an acceptable agreement is extended from October 22, 1993 to December 30, 1993.

FOR INFORMATION CONTACT: Mr. Kenneth R. Waters, Acting Branch Chief, State Liaison Branch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3036, ROB-3, Washington, DC 20202-5244. Telephone: (202) 708-7417. Individuals who use a telecommunications 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 time, Monday through Friday.

Program Authority: 20 U.S.C. 1099a-1099a-3.

Dated: December 13, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93-30821 Filed 12-16-93; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Federative Republic of Brazil concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involve approval of the following retransfer: RTD/BR(EU)-7, for the transfer of 20,000 zircaloy tubes (9,500 kilograms) from the Federal Republic of Germany of Brazil for use in fabrication of fuel for the Angra I power reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on December 15, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93-30847 Filed 12-16-93; 8:45 am]

BILLING CODE 6450-01-M

Noncompetitive Financial Assistance Award to University of Oklahoma

AGENCY: Bartlesville Project Office and Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Determination of noncompetitive financial assistance (grant) award with the University of Oklahoma.

SUMMARY: The U.S. Department of Energy (DOE), Bartlesville Project Office (BPO) announces that pursuant to 10 CFR 600.7 (b)(2)(i) criteria (B) and (D), it intends to award a grant through the Pittsburgh Energy Technology Center (PETC) to the University of Oklahoma for a one-year study on the use of liquified natural gas as a transportation fuel in the heavy trucking industry.

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT: Karen S. Olean, Contract Specialist, (412) 892-6202.

SUPPLEMENTARY INFORMATION:

Grant No.

DE-FG22-94BC14971

Title of Research Effort

"Liquified Natural Gas as a Transportation Fuel in the Heavy Trucking Industry"

Awardee

University of Oklahoma

Term of Assistance Effort

Twelve (12) months

Cost of Assistance Effort

The total estimated value is $731,060.00.

Objective

This grant provides financial assistance of $350,000.00, on a matching basis, to the University of Oklahoma for a study on the use of liquefied natural gas (LNG) as a transportation fuel for the heavy trucking industry.

Dated: November 29, 1993.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 93-30846 Filed 12-16-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER94-186-000, et al.]

Midwest Power Systems, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

A. Take notice that the following filings have been made with the Commission and public notice was issued on December 9, 1993:

1. Midwest Power Systems, Inc.

[Docket No. ER94-186-000]

Take notice that on November 24, 1993, Midwest Power Systems Inc. (MPSI) tendered for filing an annual rate revision of the Transmission Service Fee. On January 18, 1980, FERC accepted for filing (Docket ER80-92) and designated Rate Schedule FERC No. 63 for the Transmission Service Agreement (Agreement) between Iowa Public Service Company (IPS) n/ka/ MPSI and Cedar Falls Utilities (CFU).

Docket No. ER92-784-000, approved by the Commission on October 23, 1992, redesignated IPS FERC No. 631 as MPSI Rate Schedule No. 38. Docket No. ER93-881-000, approved by the Commission on September 21, 1993, accepted for filing the annual rate revisions for the period 1982 to 1992. This Agreement provides transmission service to CFU for its share of power and energy from the Council Bluffs Energy Center Unit No. 3 to CFU's system. Exhibit B of the Agreement provides that the transmission service fee shall be reviewed and adjusted annually, if necessary.

MPSI respectfully requests a waiver of the Commission's rules so that the Transmission Service Fee may be approved retroactive to January 1, 1993.

MPSI states that copies of this filing were served on Cedar Falls Utilities and the Iowa Utilities Board.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Midwest Power Systems, Inc.

[Docket No. ER94-185-000]

Take notice that on November 24, 1993, Midwest Power Systems Inc. (MPSI) tendered for filing an annual rate revision of the Transmission Service Fee. On February 18, 1992, FERC accepted for filing and designated Rate Schedule FERC No. 111 for the Transmission Service Agreement (Agreement) between Iowa Public Service Company (IPS) n/k/a MPSI and Cedar Falls Utilities (CFU). Docket No. ER92-784-000, approved by the Commission on October 23, 1992, redesignated IPS FERC No. 111 as MPSI Rate Schedule No. 65. This Agreement provides transmission service to CFU for its share of power and energy from the George Neal Generating Station Unit No. 4 to CFU's system. Section 2 of the Agreement provides that the transmission service fee shall be reviewed and adjusted annually, if necessary.

MPSI respectfully requests a waiver of the Commission's rules so that the Transmission Service Fee may be approved retroactive to January 1, 1993.

MPSI states that copies of this filing were served on Cedar Falls Utilities and the Iowa Utilities Board.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Upper Peninsula Power Co.

[Docket No. ER94-52-000]

Take notice that on November 24, 1993, Upper Peninsula Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Western Resources, Inc. Kansas Gas and Electric Co.

[Docket No. ER93-849-000]

Take notice that on November 19, 1993, Western Resources, Inc. (WRI) tendered for filing an amendment to its August 10, 1993 filing in this docket. The filing provides a revised Participation Power Agreement between WRI's subsidiary Kansas Gas and Electric Company and Midwest Energy, Inc. WRI also provided revised cost support workpapers which parallel the revisions to the Agreement.

Copies of the filing were served on Midwest Energy, Inc. and the Kansas Corporation Commission.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER93-871-000]

Take notice that on November 26, 1993, Public Service Company of New Mexico (PNM) tendered for filing a supplement to its submittal of an Interconnection Agreement (including associated Service Schedules A, B, C, D and E) between PNM and Utah Associated Municipal Power Systems (UAMPS). The supplement to the filing provides additional supporting information requested by the Commission's Staff and also includes Amendments No. 1 to Service Schedules C and D. Amendment No. 1 to Service Schedule C clarifies certain pricing provisions in relation to sales of Short Term Firm Capacity between the parties. Amendment No. 1 to Service Schedule D clarifies certain pricing provisions in relation to sales of Interruptible Transmission Service between the parties.

Copies of the supplemental filing have been served upon UAMPS and the New Mexico Public Utility Commission.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Washington Water Power Co.

[Docket No. ER94-190-000]

Take notice that on November 26, 1993 The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12 an Electric Service Agreement between the City of Plummer, Idaho (Plummer) and WWP. WWP also provides notice of termination of a prior Electric Service Agreement between itself and Plummer dated November 2, 1993 and removal of Plummer from the list of purchasers under WWP's Original Volume 1, Rate Schedule 62.

A copy of the filing was served upon Plummer.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corp.

[Docket No. ER93-313-000]

Take notice that on November 17, 1993, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an amendment to its Power Sales Tariff which provides for sales of system capacity and/or energy or resource capacity and/or energy. The Amendment is a letter requesting a deferral of 15 days so that Niagara Mohawk can submit additional information of its Tariff.

A copy of this filing has been served upon the New York State Public Service Commission.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corp.

[Docket No. ER93-926-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on November 16, 1993, tendered for filing an amendment to its initial filing in the above-referenced docket, which pertains to NYSEG's sale of capacity and associated energy to Vermont Public Power Supply Authority (VPPSA). The amendment is being made at Commission Staff's request.

NYSEG requests that November 1, 1993 be allowed as the effective date of the filings and requests waiver of the 60-day notice requirement for its filings in this docket.

NYSEG served copies of the filing upon the New York State Public Service Commission, Vermont Public Service Board, VPPSA, the Town of Hardwick Electric Department, the Village of Hyde Park Electric Department, the Village of Ludlow Electric Light Department, and the Village of Stowe Water and Light Department.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. UNITIL Power Corp. v. Public Service Company of New Hampshire and Northeast Utilities

[Docket No. EL92-42-002]

Take notice that on December 3, 1993, Public Service Company of New Hampshire (PSNH) made an amended

compliance filing as discussed in its compliance filing of September 20, 1993 in response to the Commission's August 4, 1993 letter order in the above captioned docket.

PSNH states that a copy of its amended compliance filing has been mailed to Unitil Power Corp. and the New Hampshire Public Utilities Commission.

PSNH requests that the Commission waive its filing regulations to the extend necessary to enable compliance with the Commission's order.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Co.

[Docket No. ER94-98-000]

Take notice that on December 3, 1993 FPL submitted supplemental information regarding its filing in the above-captioned docket. FPL submitted the information in response to a request from the Commission's staff.

Comment date: December 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Bayside Cogeneration, L.P.

[Docket No. QF94-9-000]

On December 7, 1993, Bayside Cogeneration, L.P. (Bayside) tendered for filing a supplement to its filing in this docket. The supplement pertains to technical aspects of the qualifying facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: December 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

B. Take notice that the following filings have been made with the Commission and public notice was issued on December 10, 1993:

1. Central Illinois Light Company

[Docket No. ER94-26-000]

Take notice that on December 8, 1993, Central Illinois Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: December 27, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. EL92-36-002]

Take notice that on December 7, 1993, Entergy Services, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: December 27, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-30813 Filed 12-16-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP92-441-004, et al.]

National Fuel Gas Supply Corporation, et al.; Natural Gas Certificate Filings

A. Take notice that the following filings have been made with the Commission and public notice was issued on December 9, 1993:

1. National Fuel Gas Supply Corp.

[Docket No. CP92-441-004]

Take notice that on December 6, 1993, National Fuel Gas Supply Corporation ("National"), 10 Lafayette Square, Buffalo, NY 14203 filed a petition to amend a certificate of public convenience and necessity issued by the Commission by order dated November 4, 1992, in Docket No. CP92-441-000. In that order, National and Tennessee Gas Pipeline Company were authorized to construct facilities that will permit National to provide firm natural gas transportation services in an aggregate maximum quantity of 68,830 Dth per day from the Niagara import point to various delivery points on National's pipeline system.

One of the facilities authorized by the Commission in that order was a new 720 horsepower compressor unit at National's Lamont compressor station at Lamont, Pennsylvania. National now submits that, due to the operational flexibility gained from its recent replacement of obsolete or deteriorated compressor units at its Roystone compressor station, it has become unnecessary to construct additional compression at its Lamont Station in order to meet its obligations to its firm project shippers. National therefore requests that the certificate previously issued in this proceeding be amended to reflect the cancellation of the additional 720 horsepower at its Lamont Station. National also requests any modifications to the waiver of tariff provisions, granted in the November 4 Order, as are necessary to reflect National's intention to waive its right to additional security from its firm shipper, given the cancellation of this station.

Comment date: December 30, 1993, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Columbia Gas Transmission Corp.

[Docket No. CP94-121-000]

Take notice that on December 6, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed an application with the Commission in Docket No. CP94-121-000 pursuant to Section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate 0.4 mile of 20-inch pipe and 2.7 miles of 30-inch pipe in Kanawha County, West Virginia, all as more fully set forth in the application which is open to the public for inspection.

Columbia proposes to install the 0.4 mile of 20-inch pipe and 2.7 miles of 30-inch pipe in Kanawha County in order to replace old pipe that has deteriorated. The new pipeline segments would replace two looped segments of 0.4 mile of 16-inch pipe and 5.5 miles of 20-inch pipe. Columbia estimates that it would spend $4,993,000 to replace the deteriorated pipeline loop segments. Columbia does not request authorization for any new or additional service.

Comment date: December 30, 1993, in accordance with Standard Paragraph F at the end of this notice.

B. Take notice that the following filing has been made with the Commission and public notice was issued on December 13, 1993:

Iroquois Gas Transmission System, L.P.

[Docket No. CP94-117-000]

Take notice that on December 3, 1993, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 606, Shelton, Connecticut 06484, filed in Docket No. CP94-117-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct a sales tap on behalf of Niagara Mohawk Power Corporation (Niagara Mohawk) under Iroquois' blanket certificate issued in

Docket No. CP89-634-000, *et al.* pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The sales tap, it is said, would be located at milepost 70.5, west of and adjacent to the site of Iroquois' proposed Croghan Compressor Station in the town of Croghan, Lewis County, New York and would be used to deliver up to 51,000 Mcf of natural gas per day to Niagara Mohawk.

Niagara Mohawk, it is said, would construct a lateral from Carthage, New York that would interconnect with Iroquois' pipeline facilities at or near Croghan, New York at the site of the proposed sales tap.

Comment date: January 27, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, 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 Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-30814 Filed 12-16-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. TM94-3-48-001]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 13, 1993.

Take notice that ANR Pipeline Company (ANR) on December 8, 1993, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, 1st Revised Second Revised Sheet No. 17, proposed to be effective January 1, 1994.

ANR states that the above referenced tariff sheet is being filed to replace Third Revised Sheet No. 17, filed on December 1, 1993. Such sheet was filed with incorrect pagination.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before December 20, 1993. 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. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-30789 Filed 12-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-77-000]

Mojave Pipeline Co.; Petition for Limited Waiver

December 13, 1993.

Take notice that on December 7, 1993, Mojave Pipeline Company (Mojave) tendered a petition for limited waiver pursuant to Rules 212 and 1101 of the Commission's Rules of Practice and Procedure. Mojave requests a limited waiver of the reporting requirements contained in part 284 of the Commission's regulations.

Mojave states that with the implementation of its Order No. 636 capacity release program, Releasing Shippers on Mojave's system may release firm transportation capacity from various receipt points to various delivery points, on either a permanent or temporary basis, to replacement shippers. Since Part 284 of the Commission's Regulations clearly mandates the reporting of transportation transactions, Mojave anticipates that the reporting of capacity release transactions will increase the number of transportation reports required to be filed. Further, the ability to have flexible receipt and delivery points may require Mojave to file a significant number of subsequent reports after implementation.

Mojave states that, in view of the administrative burden associated with Mojave's preparation and filing of these reports for capacity release transactions and the Commission's related review, Mojave requests waiver of those sections of part 284, subparts B § 284.106 and G § 284.223(d) of the Commission's regulations that require Mojave to file initial, subsequent, or termination reports within thirty days or upon termination of the service associated with the capacity release program on Mojave's system. Mojave further requests that the waiver also apply to all transportation transactions that involve solely the addition or deletion of receipt and delivery points.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 20, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-30790 Filed 12-16-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

Clean Coal International Technology Transfer Program; Meeting

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of public meeting.

SUMMARY: The objective of this notice is to notify interested companies, the international community, and the public of the Department of Energy's (DOE) intent to hold a public meeting that will assist DOE in meeting its statutory requirements of section 1332 of Public Law 102-486, the Energy Policy Act of 1992 (EPACT).

DATES: A meeting is planned on February 10-11, 1994, to introduce and explain these objectives to interested companies and the general public.

ADDRESSES: Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001, Tel: 202-737-1234 or 1-800-882-1234.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is as follows:

The first day of the meeting will begin at 10 a.m. with an opening plenary session in which DOE will provide background on section 1332, and the draft findings of a study of the market potential for export of clean coal technologies. DOE will also present, for comment, a draft approach for implementing the technology transfer program.

Following the plenary session, several breakout sessions will be held. Each breakout session will focus on a region where projects may be supported in host countries. At each breakout session, representatives of U.S. industry and potential host countries are invited to discuss market areas and types of projects for which financial assistance and other types of activities may be of interest to assist U.S. industry to participate in these markets.

Following the breakout sessions, a closing plenary session will be held at which time reports of the findings of the breakout sessions will be presented.

The second day will consist of one three hour session and will begin at 9 a.m. It will consist of an expert panel discussing impediments to financing clean coal projects in section 1332 countries and will identify existing and new financial mechanisms to assist U.S. industry participation.

FOR FURTHER INFORMATION CONTACT: Background information, a detailed agenda and a pre-registration form may be obtained by contacting Jean Lerch by phone 202-586-7320, fax 202-586-8488 or by writing to: Ms. Jean Lerch, U.S. Department of Energy, FE-20, Room 4G-052, Washington, DC 20585.

If you are interested in participating in the meeting, please send a pre-registration form to Jean Lerch by mail or fax, no later than January 31, 1994.

BACKGROUND INFORMATION: Section 1332 of Public Law 102-486, the Energy Policy Act of 1992, authorizes DOE to conduct an International Clean Coal Technology Transfer Program.

Section 1332 directs the Secretary of Energy to provide financial assistance for projects to improve efficiency and reduce emissions, located in developing countries and in countries with economies in transition for non-market economies. In preparation for these projects, the Department, among other things, is to prepare a list of potential projects and identify host countries.

On November 11, 1993, Public Law 103-138, Appropriations for Interior and Related Agencies was signed by the President. The Conference Report for the law earmarks funds for initial implementation of section 1332. The Report specifically directs the Secretary of Energy to identify potential markets for clean coal technologies in section 1332 countries and to identify existing or new financial mechanisms for financial support to be provided by the Federal Government to enhance the ability of U.S. industry to participate in these markets. To accomplish the above, the Secretary is to consider input from U.S. industry and to submit a report to the Appropriations Committee of the House and Senate by May 12, 1994.

To assist in the preparation of the report and to consider industry input, the Department will sponsor a two-day public meeting that will take place at the Hyatt Regency Washington on Capitol Hill in Washington, DC, on February 10-11, 1994.

Jack S. Siegel,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 93-30848 Filed 12-16-93; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4815-5]

Public Water System Supervision Program Revision for the Commonwealth of Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the Commonwealth of Virginia has revised their approved State Public Water System Supervision Primacy Program. Virginia has adopted drinking water regulations for: (1) Filtration, disinfection, turbidity, giardia lamblia, viruses, legionella, and heterotrophic bacteria that corresponds to the National Primary Drinking Water Regulations for filtration, disinfection, turbidity, giardia lamblia, viruses, legionella, and heterotrophic bacteria promulgated by EPA on June 29, 1989 (54 FR 27486); and (2) total coliforms (including fecal coliforms and E. Coli) that corresponds to the National Primary Drinking Water Regulations for total coliforms (including fecal coliforms and E. Coli) promulgated by EPA on June 29, 1989 (54 FR 27544). EPA has determined that these State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions and EPA approves any official determinations made by Virginia with regard to filtration or ground water under the direct influence of surface water under the Federal Surface Water Treatment Rule.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted by January 18, 1994, to the Acting Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Acting Regional Administrator. However, if a substantial request for a public request is made by January 18, 1994, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Acting Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on January 18, 1994.

A request for a public hearing shall include the following: (1) The name, address, and telephone number of the

individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Acting Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

Virginia Department of Health, 1500 East Main Street, P.O. Box 2448, Richmond, Virginia 23218.

FOR FURTHER INFORMATION CONTACT: Ghassan M. Khaled, U.S. EPA, Region 3, Drinking Water Section (3WM41), at the Philadelphia address given above; telephone (215) 597–8992.

Dated: December 9, 1993.

W.T. Wisniewski,

Acting Regional Administrator, EPA, Region 3.

[FR Doc. 93–30860 Filed 12–16–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4706–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 22, 1993 Through November 26, 1993 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D–COE–F39035–WI Rating EO2, East Channel of the Mississippi River at Prairie du Chien Long-Term Channel Maintenance Plan and St. Feriole Island and Adjacent Mainland Barge Transloading Facility Upgrading and Expansion, Implementation and COE Permits, Prairie du Chien, WI.

Summary: EPA had environmental objections to the proposed project which related to the potential impacts to high quality aquatic habitat, Federally listed endangered species, water quality and historic resources.

ERP No. D–FHW–D40262–DE Rating EC2, US 301 Corridor Transportation Improvement between Maryland/Delaware State Line west of Middletown to I–95 near Newark, Funding, Right-of-Way, COE Section 10 and 404 Permits, New Castle County, DE.

Summary: EPA expressed environmental concerns regarding terrestrial and wetland habitat analysis as well as project purpose, need and level of service information.

ERP No. D–FHW–L40187–OR Rating LO, Ferry Street Bridge Corridor Transportation Improvements, Oakway Road to East Broadway Coburg Road, Funding, Right-of-Way Grant, NPDES Permit, COE Section 10 and 404 Permits, Willamette River, Lane County, OR.

Summary: EPA had no objections to the proposed action, additional information relating to water quality and noise impacts was requested.

ERP No. D–USN–L11018–WA Rating LO, Whidbey Island Naval Air Station, Air Operations Management between Ault Field and Outlying Field Coupeville, Oak Harbor, WA.

Summary: EPA found no significant statutory or jurisdictional issues requiring changes to the proposal.

ERP No. DS–VAD–F99008–IL Rating EO2, Northeastern Illinois Area National Cemetery Development, Construction and Operation, Updated Information Concerning New Site Selection, Joliet, Grant Park or Cissna Park, Possible COE Section 404 Permit, Kankanka, Iroquois or Will Counties, IL.

Summary: EPA expressed environmental objections with the Joliet site due to impact to open grasslands. EPA believed there are other sites within the Joliet Arsenal that maybe acceptable.

Final EISs

ERP No. F–AFS–K65147–CA Lowell Hill Area, Nevada City Ranger District and near Brandy City, Downieville Ranger District, Long-Term Soil Productivty Study, Implementation, Tahoe National Forest, Nevada and Sierra Counties, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal letter was sent to the preparing agency.

ERP No. F–BLM–K20000–CA Broadwell Basin Residuals Repository and Treatment Facility for Specified Hazardous Waste, Construction and Operation, Right-of-Way Grants, Mineral Material Sales Permits and COE Section 404 Permit, San Bernardino County, CA.

Summary: EPA expressed environmental concerns that current understanding of the site hydrogeology is insufficient to anticipate potential impacts to groundwater. EPA also noted that the project may not meet Federal air quality standards for particulate matter less than 10 microns in diameter (PM10 emission).

ERP No. F–COE–K39034–CA Bel Marin Key Unit 5 (BMK5) Residential Community Construction and Development, Master Plan and Rezoning Application Approvals and Permits, Novato Creek, Marin County, CA.

Summary: EPA expressed environmental concerns regarding unresolved issues in the Final EIS including potential air quality impacts and impacts to wetlands and other waters of the United States. EPA requested that careful consideration be given to EPA's comments when preparing the Record of Decision.

ERP No. F–FHW–F40318–MN US 14 Construction, Owatonna to Kasson, Funding and Section 404 Permit, Dodge and Steele Counties, MN.

Summary: EPA felt environmental objections in the draft EIS had been satisfactorily addressed, provided that mitigation proposed in the Final EIS is implemented.

ERP No. F–FHW–K40187–CA CA–17 at Lexington Reservoir Interchange Project, Interchange and Frontage Roads Construction south of the Town of Los Gatos, Funding and Section 404 Permit, Santa Clara County, CA.

Summary: EPA requested that the Final EIS mitigation measures be included in the FHWA Record of Decision and in the California Department of Transportation's application to the Army Corps of Engineers for a Clean Water Act Section 404 permit.

ERP No. F–UAF–F11022–MI Wurtsmith Air Force Base Disposal and Reuse, Implementation, Iosco County, MI.

Summary: EPA expressed environmental concerns regarding impacts associated with the on-base water wells. Due to the contamination of the wellfield EPA recommended the wells be capped to prevent, future use, or the wells are permanently posted with warnings to describe the risk associated with consuming this water. Furthermore, additional measures need to be taken to ensure that the Township of Oscoda wellfields are adequately protected. These measures include the establishment of wellhead protection areas, and groundwater monitoring at the perimeter of the wellfields.

ERP No. F–VAD–G99005–OK Oklahoma City Area National Cemetery

Construction and Operation, Site Selection, Lake Arcadia, City of Guthrie or Fort Reno, Logan, Canadian or Oklahoma County, OK.

Summary: EPA had no objections to the proposed project as described in the Final EIS.

Regulations

ERP No. R-CGD-A59010-00 33 CFR part 157: Structural and Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls; Proposed Rules (58 FR 54870).

Summary: EPA concurred with the Coast Guard's proposed rule regarding interim protection measures recommended to safeguard United States seas from oil spills. This rule is to be in effect until 2015, when double hulls will be manadatory for oil carrying vessels over the weight of 5,000 pounds.

Dated: December 13, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-30889 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-P

[ER-FRL-4706-5]

Environmental Impact Statements; Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075. Weekly receipt of Environmental Impact Statements Filed December 6, 1993 Through December 10, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930439, FINAL EIS, EPA, FL, Cedar Bay Cogeneration Facility, Construction and Operation, NPDES Permit, Duval County, FL, Due: January 18, 1994, Contact: Heinz Mueller (404) 347-3776.

EIS No. 930440, DRAFT EIS, FAA, DC, Airport Surveillance Radar Model 9 (ASR-9) Facility to support the Washington National Airport and security coverage over the White House and Capitol Building, Site Selection, Construction and Operation, Washington, DC, Due: January 31, 1994, Contact: Mike Lanz (718) 553-1198.

EIS No. 930441, FINAL EIS, BLM, NM, Dark Canyon Special Management Area, Oil and Gas Leasing, Permit for Approval to Drill near Carlsbad Caverns National Park, Eddy County, NM, Due: January 18, 1994, Contact: Joe Incardine (505) 438-7458.

EIS No. 930442, LEGISLATIVE DRAFT, AFS, OR, Wallowa River Wild and Scenic River Study, Designation or Nondesignation in the National Wild and Scenic Rivers System, Umatilla National Forests, Union and Wallowa Counties, OR, Due: January 31, 1994, Contact: Steve Davis (503) 523-6391.

Dated: December 13, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-30888 Filed 12-16-93; 8:45 am]

BILLING CODE: 6560-50-P

Toxics Data Reporting Subcommittee of the Environmental Information and Assessments Committee National Advisory Council for Environmental Policy and Technology; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, EPA gives notice of a 2 day meeting of the Toxics Data Reporting subcommittee of the National Advisory Council for Environmental Policy and Technology. This will be the fifth meeting of the Toxics Data Reporting subcommittee, whose mission is to provide advice to EPA regarding the Agency's Toxics Release Inventory (TRI) Program.

DATES: The public meeting will take place on January 13, 1994 from 8:30 a.m. to 5 p.m., and January 14, 1994 from 8:30 a.m. to 3 p.m. Members of the public wishing to make comments at this meeting should submit their comments, in writing, by January 6, 1994.

ADDRESSES: The public meeting will be held at the Bellevue Hotel, Lexington Room, 15 E Street, Northwest, Washington, DC 20001 (202-638-0900). Written comments must be submitted to: U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Attn: Sam Sasnett, 7408.

FOR FURTHER INFORMATION CONTACT: Cassandra Vail, Environmental Assistance Division, U.S. Environmental Protection Agency, Mail Stop 7408, 401 M St., SW., Washington, DC 20460 Telephone: 202-260-0675.

SUPPLEMENTARY INFORMATION: EPA is proposing that the subcommittee discuss the following subjects: Expansion of the facilities subject to reporting under TRI, development of the subcommittee's report on its previously discussed sufficiency of the new data elements in meeting the mandate of the Pollution Prevention Act. The agenda for the two days will focus on those topics.

Dated: December 13, 1993.

David J. Graham,

Designated Federal Official, Office of Cooperative Environmental Management.

[FR Doc. 93-30861 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4815-1]

State of Alabama: Partial Program Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on partial program application of the State of Alabama for partial program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility.

EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

The State of Alabama applied for a partial determination of adequacy under section 4005 of RCRA. Region IV of EPA reviewed the State of Alabama's application and made a tentative determination of adequacy for those portions of the State of Alabama's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. These portions are described later in this notice. The State of Alabama plans to revise the remainder of its permit program to assure complete compliance with the revised MSWLF Criteria and gain full program approval. The State of Alabama's application for partial program adequacy determination is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has scheduled an opportunity for a publichearing on this tentative determination. Details appear below in the **DATES** section.

DATES: All comments on Alabama's application for a partial determination of adequacy must be received by the close business on February 10, 1994 at the EPA Region IV Office of Solid Waste, or comments may be submitted during the public hearing. The public hearing will be held on February 10, 1994 at 7 p.m. The State will participate in the public hearing held by the EPA. Please contact the individual indicated as the contact below at least 72 hours before the hearing if special accommodations are required.

ADDRESSES: Written comments should be submitted to Ms. Patricia S. Zweig, mail code 4WD-OSW, EPA Region IV, Office of Solid Waste, 345 Courtland Street, NE., Atlanta, Georgia 30365.

The public hearing will be held at 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama in the Main Hearing Room.

Copies of Alabama's application for adequacy determination are available during the hours of 8 a.m. to 4:30 p.m. at the following addresses for inspection and copying: Solid Waste Section, Land Division, Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36130, Attn: Ms. Marilyn Elliott, telephone 205–271–7715; and U.S. EPA Region IV Library, 345 Courtland Street, NE., Atlanta, Georgia, 30365, Attn: Ms. Priscilla Pride, telephone 404–347–4216.

FOR FURTHER INFORMATION CONTACT: EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Attn: Ms. Patricia S. Zweig, mail code 4WD-OSW, telephone 404–347–2091.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258. These requirements, if promulgated, will address the potential problems posed by the dual State/Tribal and Federal programs that will come into effect in October 1993 in those States/Tribes that only have partial approvals of their MSWLF programs. On that date, Federal rules covering any portion of a State/Tribe's program that has not received EPA approval will become enforceable. Owners and operators of MSWLFs subject to such dual programs must be able to understand which requirements apply and comply with them. In addition, the pieces of the Federal program that are in effect must mesh well enough with the approved portions of the State/Tribal program to leave no significant gaps in regulatory control of MSWLF's. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Federal Criteria's flexibility for those portions of the program which have been approved.

As provided in the October 9, 1991 municipal solid waste landfill rule, EPA's national Subtitle D standards took effect on October 9, 1993. Consequently, any remaining portions of the Federal Criteria that are not included in an approved State/Tribal program apply directly to the owner/operator without any approved State/Tribal flexibility. On October 1, 1993, EPA published the Final Rule to extend the effective date of the landfill criteria for certain classifications of landfills (58 FR 51536). On October 14, 1993, EPA published corrections to the Final Rule to extend the effective date (58 FR 53137).

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "Adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submission of a schedule mandatory in STIR.

B. State of Alabama

On July 9, 1993, the State of Alabama submitted an application for partial program adequacy determination. Region IV of EPA reviewed Alabama's application and tentatively determined that the State's Subtitle D program will ensure compliance with all portions of the Federal Criteria except for the Financial Assurance Criteria set forth in Subpart G. Alabama currently does not have statutory authority to promulgate or enforce financial assurance regulations, and therefore, is not requesting approval of this portion of their program. Alabama has submitted a schedule and intends to make statutory changes and subsequent regulatory changes to ensure that their program is fully comparable to the Federal criteria.

Not all States/Tribes will have existing permit programs through which they can ensure compliance with all provisions of the revised Federal Criteria. Were EPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR part 258, many States/Tribes would need to postpone obtaining approval of their permit programs for a significant amount of time. This delay in determining the adequacy of the State/Tribal permit program while the State/Tribe revises its statutes or regulations could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility available to States/Tribes with permit programs which have been approved as adequate.

As a State's/Tribe's regulations and statutes are amended to comply with the Federal MSWLF landfill regulations, unapproved portions of a partially approved MSWLF permit program may be approved by the EPA. The State/Tribe may submit an amended application to EPA for review and an adequacy determination will be made using the same criteria as for the initial application. This adequacy determination will be published in the **Federal Register** summarizing the Agency's decision and the portion(s) of the State/Tribal MSWLF permit program affected and providing an opportunity to comment for a period of 30 days. The adequacy determination will become effective sixty (60) days following publication if no adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments.

To ensure compliance with all of the revised Federal Criteria, Alabama needs to revise particular aspects of its permit program. Alabama submitted a schedule indicating that it will be able to complete these revisions by January of 1995. To allow the State to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, EPA is proposing to approve those portions of the State/Tribe's program that are ready for action today.

EPA reviewed the State's schedule and believes it is reasonable because it allows sufficient time for the legislative schedule and the rule making process, but it still will ensure that Alabama's financial assurance criteria are in effect by the date the Federal financial assurance criteria take effect.

The Alabama Department of Environmental Management (ADEM) believes that enabling legislation will be passed to authorize ADEM to adopt regulations for financial assurance by July, 1994. If that schedule is met, ADEM plans to begin the rulemaking process in August, 1994, with the regulations becoming final in January, 1995.

The public may submit written comments on EPA's tentative determination until February 10, 1994. Copies of Alabama's application are available for inspection and copying at the locations indicated in the "Addresses" section of this notice. Comments may be submitted at the public hearing as transcribed from the discussion of the hearing or in writing at the time of the hearing.

The State of Alabama proposed and passed amendments to Division 13, the Solid Waste Program, of the Alabama Department of Environmental Management (ADEM) Administrative Code to make changes necessary to implement a solid waste disposal program that is equivalent to Subtitle D of RCRA. The amendments developed by the State of Alabama became effective on November 2, 1993, and the State of Alabama's MSWLF regulations have been determined to be technically comparable to the Federal criteria.

The State of Alabama is applying for partial approval of their program for all portions of the Federal criteria except the Financial Assurance Criteria as set forth in Subpart G. The State of Alabama currently does not have statutory authority to promulgate and enforce financial assurance regulations for municipal solid waste landfills. Therefore, they are unable to satisfy this requirement at this time. According to the submitted schedule, Alabama will pursue the necessary statutory authority and subsequently make the regulatory and program changes necessary to attain comparability with the Federal Financial Assurance Criteria as set forth in subpart G of part 258. The effects of Alabama obtaining partial approval instead of full approval should be minimal since the Federal Financial Assurance Criteria will not go into effect until after Alabama is scheduled to obtain full approval.

The State of Alabama's municipal solid waste landfill program is not enforceable within the boundaries of the designated tribal land of the Poarch Band of Creek Indians.

EPA will consider all public comments on its tentative determination received during the public comment period and during the public hearing. Issues raised by those comments may be the basis for a determination of inadequacy for Alabama's program. Region IV of EPA will make a final decision on whether or not to approve Alabama's program after all comments are received and reviewed, and will give notice of the final decision in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

The office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice of tentative partial program adequacy determination of Alabama's municipal solid waste permit program is issued under the authority of

section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: December 9, 1993.

Don Guinyard,

Acting Regional Administrator.

[FR Doc. 93-30891 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4815-2]

Nebraska; Final Partial Program Determination of Adequacy of State/Tribal Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final partial program determination of adequacy on Nebraska's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that Municipal Solid Waste Landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. The EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which the EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus the approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. The EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal criteria under 40 CFR part 258 will apply to all permitted and unpermitted MSWLF facilities.

Nebraska applied for a determination of adequacy under section 4005 of RCRA. The EPA reviewed Nebraska's application and made a tentative determination that Nebraska's permit program would be adequate to ensure compliance with 40 CFR part 258, with one exception. After consideration of the one comment received, today EPA is issuing a final determination of partial program adequacy for the Nebraska landfill permit program.

EFFECTIVE DATE: The determination of adequacy for Nebraska shall be effective on December 17, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Altheà M. Moses, 726 Minnesota Avenue, Kansas City, Kansas 66101; (913) 551-7055.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the EPA promulgated 40 CFR part 258 for MSWLFs. Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under 40 CFR part 258. Subtitle D also requires in section 4005 of RCRA that the EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the 40 CFR part 258. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

The EPA intends to propose in the STIR to allow partial approval if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of 40 CFR part 258. As provided in 40 CFR part 258, the EPA's Subtitle D standards took effect on October 9, 1993. Consequently, any portion(s) of 40 CFR part 258 which are not included in an approved State/Tribal program by October 9, 1993 would apply directly to the owner/operator. The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR. Consequently, the EPA reviewed the program approved today and concluded that the State/Tribal and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result owners/operators will be able to work with the State/Tribal permitting agency to take advantage of 40 CFR part 258's flexibility for those portions of the program which have been approved.

The EPA will review State/Tribal requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. The EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to 40 CFR part 258. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, the EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

The EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. The EPA plans to provide more specific criteria for this evaluation when it proposes the STIR. The EPA expects State/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program. The EPA also is requesting State/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. The EPA notes that it intends to propose to

make submissions of a schedule mandatory in the STIR.

On August 19, 1993, Nebraska submitted an application to obtain a full program adequacy determination for its municipal solid waste landfill permit program. On October 5, 1993, EPA published a tentative determination of partial program adequacy for Nebraska's program. Further background on the tentative partial program determination of adequacy is located at 58 FR 51820 (October 5, 1993).

Nebraska does not claim jurisdiction over Indian Land. Nebraska's program is not enforceable on Indian lands.

Along with the tentative determination, EPA announced the availability of the application for public comment. One comment was received in support of approval of the Nebraska program. A public hearing was not held due to there having been no requests for a hearing. EPA is approving the Nebraska program for all parts except the exemption from ground-water monitoring at small facilities. This exemption was vacated from 40 CFR part 258 as a result of *Sierra Club* v. *U.S. Environmental Protection Agency*, 992 F.2d 337 (D.C. Cir. 1993). In accordance with this decision, 40 CFR 258.1(f)(1) was revised in 40 CFR 258.1(f), 58 FR 51536 (October 1, 1993).

As a State's/Tribe's regulations and statutes are amended to comply with 40 CFR part 258, unapproved portions of a partially approved MSWLF permit program may be approved by the EPA. The State/Tribe may submit an amended application to EPA for review and an adequacy determination will be made using the same criteria as for the initial application. This adequacy determination will be published in the **Federal Register** summarizing the Agency's decision and the portion(s) of the State/Tribal MSWLF permit program affected and providing an opportunity to comment for a period of 30 days. The adequacy determination will become effective sixty (60) days following publication if no adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments.

While the State of Nebraska had originally requested full program approval, it has acknowledged that the EPA can only grant partial approval. The State has met the requirements of the State/Tribal Implementation rule for partial program adequacy determination by submitting a schedule to comply with 40 CFR 258.1(f), 58 FR 51536. Nebraska proposes to revise their regulations by April 1995. The EPA has reviewed this proposal and concludes that it is reasonable.

B. Decision

After reviewing the public comments, I conclude that Nebraska's application for partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA for partial program adequacy.

Accordingly, Nebraska is granted a partial program determination of adequacy for all parts of its municipal solid waste landfill permit program, with the exception that the EPA is reserving for Federal enforcement ground water monitoring at small facilities. All such units, in accordance with the Federal requirements at 40 CFR 258.1(f), are not exempt from the ground water monitoring requirements.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As the EPA explained in the preamble to the final MSWLF criteria, the EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by the EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

This action takes effect on the date of publication. The EPA believes it has good cause under section 553(d) of the Administrative Procedure Act 5 U.S.C. 553(d), to put this action into effect less than 30 days after publication in the FR. All of the requirements and obligations in the State's/Tribe's program are already in effect as a matter of State/Tribal law. The EPA's action today does not impose any new requirements with which the regulated community must begin to comply. Nor do these requirements become enforceable by the EPA as Federal law. Consequently, the EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under The Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6946.

Dated: December 9, 1993.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 93–30862 Filed 12–16–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4814–9]

Texas; Final Partial Program Determination of Adequacy of State/Tribe Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final partial program determination of adequacy on Texas application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that Municipal Solid Waste Landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria 40 CFR part 258 (Federal Criteria); RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/

operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

Texas applied for a partial program determination of adequacy under section 4005 of RCRA. EPA reviewed Texas' application and made a tentative determination that portions of the MSWLF permit program are adequate to ensure compliance with the revised MSWLF Federal Criteria. After reviewing all comments received, EPA today is granting final approval to Texas' partial program.

EFFECTIVE DATE: The determination of the adequacy of the Texas partial program shall be effective on December 17, 1993.

FOR FURTHER INFORMATION CONTACT: Andy Tayrien, Environmental Engineer, (6H-HW), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, 214–655–8546.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in the STIR to allow partial approval if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258. As provided in the October 9, 1991, municipal landfill rule, EPA's national Subtitle D standards took effect in October 1993. Consequently, any portions of the Federal Criteria which were not included in an approved State/Tribal program by October 1993 apply directly to the owner/operator. The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules which take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR rule. Consequently, EPA reviewed the program approved today and concluded that the State/Tribal and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval will allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Federal Criteria's flexibility for those portions of the program which have been approved.

EPA will review State/Tribal requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authority to take specific action against any owner or operator for failure to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program. EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA intends to propose to make submissions of a schedule mandatory in the STIR.

B. State of Texas

On August 4, 1993, Texas submitted an application to obtain a determination that the State/Tribe's municipal solid waste landfill permit program was adequate to ensure compliance with the Federal Criteria. On August 25, 1993, EPA published a tentative determination of adequacy for Texas' program. Further background on the tentative partial program determination of adequacy appears at 58 FR 44821, August 25, 1993. Along with the tentative determination, EPA announced the availability of the application for public comment.

On May 7, 1993, the U.S. Court of Appeals for the District of Columbia Circuit Court (Natural Resources Defense Council v. EPA) directed EPA to eliminate an exemption from ground water monitoring for small landfills in arid and remote locations (40 CFR 258(f)(1)). Texas adopted changes to its Municipal Solid Waste Regulations to incorporate the 40 CFR part 258 standards in a final rule published on June 18, 1993, (effective October 9, 1993). As adopted, Texas rules currently provide for exempting certain small landfills in arid and remote regions from ground water monitoring requirements.

To ensure compliance with all of the revised Federal Criteria, Texas must revise one aspect of its permit program to remove the aforementioned ground water monitoring exemption. To allow Texas to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, EPA is proposing to approve all other aspects of the Texas program. EPA has reviewed Texas' proposal and believes it is reasonable because Texas has stated that it "intend(s) to modify (its) rules to reflect the court's decision, as adopted by EPA in a final rule," in a letter to EPA, dated August 4, 1993.

Because significant interest by members of the public was expressed and numerous requests for a public hearing were received, EPA Region 6 conducted a public hearing on Tuesday, October 12, 1993, at the Texas Natural Resource Conservation Commission (TNRCC) offices in Austin, Texas. All commenters who requested either a public hearing or an extension to the public comment period were notified by

facsimile transmission or mail of the meeting time and location. The comments generated by this meeting are addressed elsewhere in this document.

Texas has submitted a proposal for completing the necessary changes to the laws, regulations, and/or guidance to comply with the remaining part 258 requirements. As explained in the notice of tentative determination, EPA reviewed the proposal and concluded that it was reasonable.

C. Public Comments

EPA received the following public comments on the tentative determination of partial adequacy for Texas' MSWLF permit program.

Several commenters stated that they believed that Texas does not allow for sufficient public comment in its MSWLF Permitting Program. EPA notes that the Texas regulations (Texas Health and Safety Code, Title 5, Section 361.088; and 31 TAC 305.70) provide for public participation through public notice, meetings and hearings for MSWLF permit modifications, amendments, extensions and renewals. This exceeds Federal requirements outlined in the draft STIR which specify that MSWLF permit documents for permit determinations are made available for public review and comment; and final permit determinations on MSWLF permit applications are made known to the public.

One commenter stated support for the amount of public participation allowed while Texas was in the process of adopting their MSWLF permit program regulations. The commenter stated that "all meetings ... were open meetings, and ... there was good attendance by the general public. These meetings were properly noticed in the *Texas Register* and well publicized; there was adequate opportunity for all members of the public to participate." This commenter also stated that the Texas plan "provides for adequate public participation in this (permitting) process."

Another commenter representing over 100 cities and counties in Texas offered evidence which supported the proposition that Texas provided considerable opportunity for public involvement in its rulemaking process. This commenter also cited Texas regulations providing for public meetings and hearings for siting and expansion of future municipal solid waste (MSW) facilities.

One commenter representing the TNRCC submitted public meeting notices and meeting minutes dating from November 20, 1991 to July 15, 1993, which documented participation in the process of Texas' development and adoption of the Subtitle D MSWLF Criteria.

One commenter stated that the "Texas plan fully complies with the Subtitle D requirements." EPA agrees with this comment in general, noting that the Texas MSWLF permit process does comply with all Subtitle D criteria, except that, as adopted, Texas rules currently allow the exemption of certain small landfills in arid and remote regions from ground water monitoring requirements. Texas plans to revise its regulations to disallow the arid, small, remote landfill exemption, so that the Texas program is equivalent to the Subtitle D Federal Criteria in all areas. EPA is not approving this aspect of Texas' program at this time.

Several commenters stated concern that Texas' program allows siting of MSWLFs in, near or adjacent to flood plains. Another commenter representing over 100 cities and counties in Texas stated that the Texas (and Federal) regulations prohibit the siting or existence of new, existing and lateral expansion of MSWLFs in the 100 year floodplain. The Texas program is equivalent to Subtitle D criteria in that it requires MSWLFs not be permitted within the 100-yr floodplain unless the owner or operator of the MSWLF unit clearly demonstrates that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste that poses a hazard to human health and the environment.

One commenter requested that "if more testing is required to assure water quality, then the (TNRCC, sic) Commission should adopt rules which are stronger than those made by EPA." EPA has no provision that would require Texas to adopt standards more stringent than the EPA Subtitle D criteria for MSWLFs. However, EPA notes that the Table 1 constituents (Maximum Contaminant Limits; 40 CFR part 258) are derived from maximum contaminant limits (MCLs) that are protective of ground water and any other water sources which could be impacted by a release from a landfill.

One commenter noted that the location of several landfills in the center of an area which is already struggling to meet air quality compliance requirements should also be addressed. EPA believes the Texas regulations meet air quality requirements outlined in Subtitle D, since they require that the owner or operator shall ensure that any unit of the municipal solid waste facility does not violate any applicable requirement of the approved State Implementation Plan (SIP) developed under the Clean Air Act (31 TAC 330.125).

One commenter expressed concern that Texas' program allows siting of landfills upstream of public drinking water sources. Texas has adopted EPA's criteria which provides for protection of potential drinking water sources, containing location/siting restrictions, operating criteria, design standards, performance standards, ground water monitoring standards, corrective action measures, closure and post-closure care requirements and financial assurance requirements that are adequately protective of potential drinking water sources. It should also be noted that all municipal drinking water is treated to meet stringent drinking water standards prior to distribution to the public.

One commenter expressed concern that leachate could be used for dust control at a MSWLF. EPA regulations state that bulk or noncontainerized liquid waste may not be placed in MSWLF units unless the waste is leachate or gas condensate derived from the MSWLF unit and the MSWLF unit, whether it is a new or existing MSWLF, or a lateral expansion, is designed with a composite liner and leachate collection system as described in 40 CFR 258.40 (a)(2). However, 40 CFR 258.40 (a)(2) not only requires a composite liner and a leachate collection system, but also requires the leachate collection system to be designed and constructed to maintain less than a 30-cm (12 in) depth of leachate over the liner. Therefore, after a period of time, when sufficient volumes of leachate have been collected that exceed the 30-cm depth of leachate over the liner, it is expected that to avoid excessive leachate buildup over the liner, the practical alternative will involve treatment and disposal of leachate through a properly permitted waste water treatment plant or through a NPDES permit. EPA has reviewed the Texas regulations regarding leachate collection and disposal and has determined that they fulfill the EPA Subtitle D Criteria.

Several commenters requested that EPA approve the Texas MSWLF permit program and delegate authority to Texas to implement its program as soon as possible. EPA agrees with these commenters and is publishing this rule today granting partial program approval for this purpose.

One commenter stated the belief that the Texas law does not provide for citizen suits, and that it is not clear if the Federal citizen suit provision will be applicable to Texas citizens upon

delegation. Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

One commenter stated the belief that the Texas MSWLF Permit Program does not contain adequate enforcement provisions. EPA has thoroughly reviewed the Texas regulations and believes that they meet the Federal Subtitle D and draft STIR requirements for enforcement authority and intervention in civil enforcement proceedings.

One commenter stated that EPA has not issued any rules or official guidelines for delegation of the Subtitle D program to states. EPA disagrees with this statement, and as stated in the summary to this rule, EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements.

One commenter stated the belief that Texas is grandfathering landfills to avoid stricter standards. EPA points out that the Federal and Texas regulations require that all new, existing or lateral expansion of MSWLFs must comply with all provisions of the new Subtitle D criteria as of its effective date.

One commenter stated the Texas exemption from ground water monitoring does not qualify under Subtitle D and another commenter believes that the proposed small, arid, remote exemption from ground water monitoring will apply for their city. EPA, as stated elsewhere in this rule, is not approving the small, arid, remote landfill exemption contained within the Texas regulations.

EPA believes it is important to recognize that the Subtitle D regulations were developed and promulgated to provide greater protection of human health and the environment. Many commenters may want to review these regulations more thoroughly to understand the substantial changes and improvements that they will bring about in the operation of MSW Landfills in the very near future.

D. Decision

After reviewing the public comments, EPA concludes that Texas' application for a partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted a determination of partial program adequacy for all areas of its municipal solid waste permit program, with the exception of the exemption previously provided in 40 CFR 258(f)(1), which has been vacated by the U.S Court of Appeals for the District of Columbia Circuit.

Texas' MSWLF permitting program does not apply and cannot be enforced in Indian country in the State of Texas.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

This action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's/Tribe's program are already in effect as a matter of State/Tribal law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Joe D. Winkle,

Regional Administrator.

[FR Doc. 93-30863 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-190002A; FRL-4752-2]

State Pesticide Residue Removal Compliance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Interim Determination of Adequacy of Certain State Programs.

SUMMARY: Section 19(f)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), states that after December 24, 1993, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 11, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with regulations promulgated under the authority of section 19(f)(1). The Agency has not yet promulgated regulations under section 19(f)(1) and will not do so by December 24, 1993. To avoid having the provisions of section 19(f)(2) adversely impact the States and EPA, the Agency published a policy in the **Federal Register** on August 18, 1993, which set forth a process whereby the Agency will make an interim determination of adequacy for those States with primary enforcement responsibility and/or certification programs. This determination is based on an initial commitment by a State to conduct a number of activities which will position the State to have an adequate program in place by the time compliance with the regulations promulgated under section 19(f)(1) is required.

This notice is to announce those States which have met the criteria of the August 18, 1993 policy by submitting a commitment to conduct the activities set forth in the policy and therefore have been determined by EPA to have an adequate State pesticide residue removal compliance program and to be taking the necessary steps to carry out enforcement of the new requirements within 2 years of promulgation of the final rule.

ADDRESSES: Any person wishing to review the State submissions may do so, in person, from 8 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays, at the following address: Public Docket, Room 1132, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Phyllis Flaherty, Office of Compliance Monitoring (7204W), 401 M St., SW., Washington DC 20460, telephone (703) 308-8383, facsimile (703) 308-8218.

SUPPLEMENTARY INFORMATION: The following States have submitted a commitment to conduct the activities outlined in the August 18, 1993 Policy Statement on Interim Determination of Adequacy of State Pesticide Residue Removal Compliance Programs:

Alabama
Alaska
American Samoa
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Guam
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
North Carolina
North Dakota
Northern Mariana Islands
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

These States have met two criteria: (1) There is a current program for ensuring compliance with existing residue removal requirements, and (2) they have committed to the activities set out in the August 18, 1993 Policy Statement to be in a position to have a compliance program in place to enforce the section 19(f)(1) regulations. Based on the commitments submitted by these States, I have determined that they will be taking steps necessary to have an adequate program for ensuring compliance with the regulations under section 19(f)(1) upon the compliance date of those regulations. This determination of adequacy is an interim measure to fulfill EPA's responsibility under section 19(f)(2) and to avoid States losing their primary enforcement and certification authority after December 24, 1993. This determination of adequacy is temporary and will expire 2 years after promulgation of a final rule issued under section 19(f)(1). Thereafter, States must have a program to ensure compliance with the section 19(f) regulations.

Several Native American Tribes also submitted a commitment to conduct the activities outlined in the policy statement. Currently, the authority of Native American Tribes to certify applicators and cooperate with EPA in enforcement of FIFRA derives from FIFRA section 23. Therefore, this authority is not affected by section 19(f)(2) and the December 24, 1993 deadline concerning primary State enforcement responsibility under section 26 and State certification authority under section 11. Accordingly, Native American Tribes may continue to conduct enforcement activities and certification of applicators in accordance with their cooperative agreements with EPA. The Agency will be working with all Native American Tribes entering into cooperative agreements to ensure adequate residue removal programs.

Dated: December 8, 1993.

Carol M. Browner,

Administrator.

[FR Doc. 93-30865 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

[QPPTS-59329; FRL-4749-7]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-94-2. The test marketing conditions are described below.

EFFECTIVE DATE: December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Edna Pleasants, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, D.C. 20460, (202) 260-4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-94-2. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently the notice of receipt of the application was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), Rm. ETG-102 at the above address between 12:00 noon and 4:00 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME-94-2. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after

the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-94-2

Date of Receipt: November 3, 1993. The extended comment period will close (insert date 15 days after date of publication in the Federal Register).

Applicant: Albright & Wilson Americas Inc.

Chemical: (G) Substituted Methyl Amine.

Use: (G) Chemical Intermediate.

Production Volume: 6000 kilograms.

Number of Customers: Confidential.

Test Marketing Period: Confidential. Commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: December 9, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-30869 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-51824; FRL-4647-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 67 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93-1201, 93-1202, 93-1203, 93-1204, 93-1205, September 23, 1993.

P 93-1206, 93-1207, 93-1208, 93-1209, 93-1210, 93-1211, 93-1212, 93-1213, 93-1214, 93-1215, September 26, 1993.

P 93-1216, 93-1217, 93-1218, 93-1219, 93-1220, September 27, 1993.

P 93-1221, 93-1222, 93-1223, 93-1224, September 28, 1993.

P 93-1225, 93-1226, 93-1227, 93-1228, October 3, 1993.

P 93-1229, 93-1230, 93-1231, 93-1232, 93-1233, 93-1234, 93-1235, 93-1236, 93-1237, 93-1238, October 4, 1993.

P 93-1239, 93-1240, 93-1241, 93-1242, October 5, 1993.

P 93-1243, October 9, 1993.

P 93-1244, October 6, 1993.

P 93-1245, 93-1246, 93-1247, 93-1248, 93-1249, 93-1250, October 10, 1993.

P 93-1251, October 17, 1993.

P 93-1252, 93-1253, 93-1254, October 11, 1993.

P 93-1255, 93-1256, October 12, 1993.

P 93-1257, October 13, 1993.

P 93-1258, 93-1259, 93-1260, October 12, 1993.

P 93-1261, 93-1262, 93-1263, 93-1264, 93-1265, 93-1266, 93-1267, October 13, 1993.

Written comments by:

P 93-1201, 93-1202, 93-1203, 93-1204, 93-1205, August 24, 1993.

P 93-1206, 93-1207, 93-1208, 93-1209, 93-1210, 93-1211, 93-1212, 93-1213, 93-1214, 93-1215, August 27, 1993.

P 93-1216, 93-1217, 93-1218, 93-1219, 93-1220, August 28, 1993.

P 93-1221, 93-1222, 93-1223, 93-1224, August 29, 1993.

P 93-1225, 93-1226, 93-1227, 93-1228, September 3, 1993.

P 93-1229, 93-1230, 93-1231, 93-1232, 93-1233, 93-1234, 93-1235, 93-1236, 93-1237, 93-1238, September 4, 1993.

P 93-1239, 93-1240, 93-1241, 93-1242, September 5, 1993.

P 93-1243, September 9, 1993.

P 93-1244, September 6, 1993.

P 93-1245, 93-1246, 93-1247, 93-1248, 93-1250, 93-1249, September 10, 1993.

P 93-1251, September 17, 1993.

P 93-1252, 93-1253, 93-1254, September 11, 1993.

P 93-1255, 93-1256, September 12, 1993.

P 93-1257, September 13, 1993.

P 93-1258, 93-1259, 93-1260, September 12, 1993.

P 93-1261, 93-1262, 93-1263, 93-1264, 93-1265, 93-1266, 93-1267, September 13, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS-51824]" and the specific PMN number should be sent to: Document Control Center (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G-099, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG-102 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

P 93-1201

Manufacturer. IBC Advanced Technologies Inc.

Chemical. (S) 1-(2-propenyloxy) methyl-3,6-dioxacocetane-1,8-diol.

Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000-4,000 kg/yr.

P 93-1202

Manufacturer. IBC Advanced Technologies Inc.

Chemical. (S) 1-(2-propenyloxy)methyl-3,6-dioxacocetane-1,8-diol.

Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000-4,000 kg/yr.

P 93-1203

Manufacturer. IBC Advanced Technologies.

Chemical. (S) 1-(2-propenyloxy)methyl-3,6-dioxacocetane-1,8-diol.

Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1204

Manufacturer. IBC Advance Technologies Inc.

Chemical. (S) 1-(2-propenyloxy)methyl-3,6-dioxacocetane-1,8-diol.

Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1205

Manufacturer. IBC Advanced Technologies Inc.

Chemical. (S) 1-(2-propenyloxy)methyl-3,6-dioxacocetane-1,8-diol.

Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1206

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (S) 2((2-Propenyloxy)methyl)-1,4,7,10-tetraoxacyclodecane.

Use/Production. (S) An intermediate for the production of ligand-modified silica gels. Prod. range: 1,000–2,000 kg/yr.

P 93–1207

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (S) 2-(2-Propenyloxy)methyl)-1,4,7,10,13-pentaoxacyclopentadecane.

Use/Production. (S) An intermediate for the production of ligand-modified silica gels. Prod. range: 1,000–2,000 kg/yr.

P 93–1208

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (S) 2-(2-Proenyloxy)methyl-1,4,7,10,13,16-hexaoxacyclooctadecane.

Use/Production. (S) An intermediate for the production of ligand- modified silica gels. Prod. range: 1,000–2,000 kg/yr.

P 93–1209

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (S) 2-(2-Propenyloxy)methyl-1,4,7,10,13,16,19-heptaoxacycloheneicosane.

Use/Production. (S) An intermediate for the production of ligand- modified silica gels. Prod. range: 1,000–2,000 kg/yr.

P 93–1210

Manufacturer. Confidential.

Chemical. (G) Blocked isocyanate terminated polyurethane.

Use/Production. (G) Component of industrial adhesive. Prod. range: Confidential.

P 93–1211

Importer. Confidential.

Chemical. (G) Trifluoroethane sulfonyl modified methacrylate copolymer.

Use/Import. (G) For use with aqueous solutions in a contained use. Import range: Confidential.

P 93–1212

Importer. Confidential.

Chemical. (G) Trifluoroethane sulfonyl modified methacrylate copolymer.

Use/Import. (G) For use with aqueous solutions in a contained use. Import range: Confidential.

P 93–1213

Importer. Oakite Products Inc.

Chemical. (G) Polyurethane-polyacrylate, hybrid polymer.

Use/Import. (S) Polymer component in corrosion inhibiting coatings for metal surfaces. Import range: Confidential.

P 93–1214

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkoxylated amide.

Use/Production. (G) Additive for fuels. Prod. range: Confidential.

P 93–1215

Manufacturer. The Dow Chemical Company.

Chemical. (G) Amide alkali salt.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93–1216

Manufacturer. Mitsui Petrochemicals (America), LTD.

Chemical. (S) *N*-Alkylaminophenol.

Use/Production. (G) Intermediate for *N,N*-dialkyl-*m*-aminophenol. Prod. range: Confidential.

Toxicity Data. Acute oral: LD50 2,000 mg/kg (rat). Eye irritation: Strong (rabbit). Skin irritation: Negligible (rabbit).

P 93–1217

Manufacturer. Confidential.

Chemical. (G) Potassium salt of mixed branched carboxylic acids.

Use/Production. (S) Catalyst. Prod. range: Confidential.

P 93–1218

Manufacturer. Confidential.

Chemical. (G) Potassium salt of mixed branched carboxylic acids.

Use/Production. (S) Catalyst. Prod. range: Confidential.

P 93–1219

Manufacturer. Confidential.

Chemical. (G) Potassium salt of mixed branched carboxylic acids.

Use/Production. (S) Catalyst. Prod. range: Confidential.

P 93–1220

Importer. Hoechst Celanese.

Chemical. (G) Aqueous polyurethane dispersion.

Use/Import. (S) Binder for car repair paints (coating of plastic parts). Import range: 10,000 kg/yr.

P 93–1221

Importer. Confidential.

Chemical. (G) Ethoxylated, propoxylated polyaryl phenol.

Use/Import. (S) Emulsifier, wetting agent or dispersant for agricultural formulations. Import range: Confidential.

P 93–1222

Importer. Confidential.

Chemical. (G) Phosphated polyarylphenolethoxylate, potassium salt.

Use/Import. (S) Wetting and dispersing agent in pesticide formulations. Import range: Confidential.

P 93–1223

Importer. Confidential.

Chemical. (G) Modified epoxy resin.

Use/Import. (G) Resin for automative coating. Import range: Confidential.

P 93–1224

Manufacturer. Confidential.

Chemical. (G) Hetero, aromatic azo dyestuff.

Use/Import. (G) Resin for automative coating. Import range:

P 93–1225

Manufacturer. Confidential.

Chemical. (G) Methacrylate/acrylate/styrene copolymer.

Use/Production. (G) Destructive use intermediate. Prod. range: Confidential.

P 93–1226

Importer. Confidential.

Chemical. (G) Perfluoralkylethylacrylate copolymer.

Use/Import. (S) Textile finish. Import range: Confidential.

Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Eye irritation: None (rabbit). Skin irritation: Negligible (rabbit).

P 93–1227

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Polyester polyurethane.
Use/Import. (G) Polyurethane for adhesive. Import range: Confidential.

P 93–1228

Manufacturer. Confidential.
Chemical. (G) Isocyanate extended polyols.
Use/Production. (G) Adhesive for composite, plastics, and metals open, nondispersive use. Prod. range: Confidential.

P 93–1229

Manufacturer. Confidential.
Chemical. (G) Polyurethane salt.
Use/Production. (G) Open, nondispersive use as a polyurethane surface coating. Prod. range: Confidential.

P 93–1230

Manufacturer. Dow Corning Corporation.
Chemical. (S) Siloxanes and silicones, di-Me, Me 3,3,3-trifluoropropyl, polymers with Me silesquioxanes) ethenyldimethylsilyl oxy)-terminated.
Use/Production. (S) Silicone electronic coating. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 34.6 g/kg (rat). Eye irritation: Slight (rabbit). Skin irritation: Slight (rabbit).

P 93–1231

Manufacturer. Confidential.
Chemical. (G) Polyurethane prepolymer.
Use/Production. (G) Destructive use polyurethane intermediate. Prod. range: Confidential.

P 93–1232

Manufacturer. The Dow Corning Corporation.
Chemical. (S) Siloxanes and silicones, di-Me, Me 3,3,3-trifluoropropyl, dimethylhydrogensiloxy-terminated.
Use/Production. (S) Silicone electric coating. Prod. range: Confidential.

P 93–1233

Manufacturer. Confidential.
Chemical. (G) Substituted ammonium phosphate salt.
Use/Production. (G) Polyurethane monomer. Prod. range: Confidential.

P 93–1234

Manufacturer. Confidential.
Chemical. (S) Substituted ammonium phosphate salt.
Use/Production. (G) Polyurethane monomer. Prod. range: Confidential.

P 93–1235

Importer. Diagnostic Chemicals Limited.
Chemical. (G) Propanenoate, silylterminated alkyl ester.
Use/Import. (S) Chemical intermediate used in preparation of reactive polymer. Import range: 300–1,500 kg/yr.

P 93–1236

Importer. Hoechst Celanese Corporation.
Chemical. (G) Bisphenol *A* epichlorohydrin, propyleneoxide polymer.
Use/Import. (S) Coatings for corrosions-protection and cement concert. Import range: 12,000–36,000 kg/yr.

P 93–1237

Manufacturer. Lilly Industries, Inc.
Chemical. (G) Polymer of benzenedicarboxylic acid, alkanetriol, vegetable oil and fatty acids, and phenolic resin.
Use/Production. (G) Industrial liquid paints. Prod. range: 50,000–205,000 kg/yr.

P 93–1238

Manufacturer. Dearborn Division, W.R. Grace and Company.
Chemical. (G) Tannin 3,4 ((bis-oxy-2-hydroxypropyl) trimethyl ammonium chloride).
Use/Production. (S) Waste water coagulent and paint spray booth detackifier/coagulant. Prod. range: 100,000–200,000 kg/yr.
Toxicity Data. Acute oral: LD50 > 5,000 kg/yr (rat).

P 93–1239

Manufacturer. Sanncor Industries, Inc.
Chemical. (S) Oxine blocked polyurethane.
Use/Production. (G) Leather and fabric coating. Prod. range: Confidential.

P 93–1240

Manufacturer. Stockhausen, Inc.
Chemical. (G) Maleic hydride ester with butyl glycol, polymer with *x*-olefin and acrylate provisional maleic hydride monoglycolester polymer with fatty alkene and acrylate provisional *x*-olefin-acrylate acid-ester terpolymer salt provisional.
Use/Production. (G) Leather softner formulation for application. Prod. range: 100,000–300,000 kg/yr.

P 93–1241

Manufacturer. Confidential.
Chemical. (G) Polyether alkanyl esters.
Use/Production. (G) Plastic insulation foam stabilizer. Prod. range: Confidential.

P 93–1242

Importer. Ciba-Geigy Corporation.
Chemical. (G) Substituted azo triazine dye.
Use/Import. (G) Textile dye. Import range: Confidential.

P 93–1243

Importer. Elf Atochem North America.
Chemical. (S) Azacyclotridecan-*z*-one; hexamethylene diamine; 1,9-nonanedioic acid.
Use/Import. (S) Hot melt adhesive. Import range: 25,000–50,000 kg/yr.

P 93–1244

Manufacturer. R. T. Vanderbilt Company, Inc.
Chemical. (G) Tetralkylthiuram disulfide.
Use/Production. (S) Polymer and elastomer accelerator. Prod. range: Confidential.

P 93–1245

Importer. Confidential.
Chemical. (G) Chlorotrifluoro ethylene copolymer.
Use/Import. (S) Resin for coating. Import range: Confidential.

P 93–1246

Importer. Confidential.
Chemical. (G) Chlorotrifluoroethylene copolymer.
Use/Import. (S) Resin for coating. Import range: Confidential.

P 93–1247

Manufacturer. Confidential.
Chemical. (G) Modified polyester resin.
Use/Production. (G) Resin for coating. Prod. range: Confidential.

P 93–1248

Manufacturer. Confidential.
Chemical. (G) Modified polyester resin.
Use/Production. (G) Resin for coating. Prod. range: Confidential.

P 93–1249

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanate, polyols and polyamines.

P 93–1250

Importer. Hoechst Celanese Corporation.
Chemical. (G) 1,6 Hexanediol; adipic acid; 2,2-Dimethyl-1,3-propanediol; isophthalic acid 2,2-bis-(Hydroxymethyl)-propionic acid; 5-isocyanatomethyl-3,3,5-trimethyl-1-cyclohexyl isocyanate dic diethanolamine; *N,N*-dimethylamine.
Use/Import. (S) Binders in a primer formulation, hydro filler and top coat. Import range: 4,000–38,000 kg/yr.

P 93-1251

Importer. Harcros Chemicals, Inc.
Chemical. (G) Urethane acrylate.
Use/Import. (S) The chemical substance will be used in the radiation curing of vanishes by either ultra violet radiation. Import range: 1,000–5,000 kg/yr.

P 93-1252

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer salt.
Use/Production. (G) Water-based intermediate for ink vehicle. Prod. range: Confidential.

P 93-1253

Manufacturer. R. T. Vanderbilt Company.
Chemical. (G) Amines, C_{12-14}-tert-alkyl compounds with 2(*H*)-benzothiazolethione.
Use/Production. (S) Multifunctional additive for lubricants. Prod. range: Confidential.

P 93-1254

Manufacturer. The Dow Chemical Company.
Chemical. (G) Azosulfone.
Use/Production. (S) Additive for polymer formulation. Prod. range: Confidential.

P 93-1255

Manufacturer. Confidential.
Chemical. (G) Reaction product of metallic alkyls and polysiloxanes.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 93-1256

Manufacturer. Confidential.
Chemical. (G) Reaction product of metallic alkyls, polysiloxanes and transition metal compounds.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 93-1257

Manufacturer. Confidential.
Chemical. (G) Isocyanate terminated urethane polymer.
Use/Production. (G) Urethane adhesive. Prod. range: Confidential.

P 93-1258

Manufacturer. Confidential.
Chemical. (G) Ester, salt solution.
Use/Production. (S) Source material for recovery of valuable chemicals. Prod. range: Confidential.

P 93-1259

Importer. Confidential.
Chemical. (G) Anion exchange resin.
Use/Import. (S) Nitrate removal from water. Import range: 40,000–90,909 kg/yr.

P 93-1260

Manufacturer. Arizona Chemical Company.
Chemical. (G) Modified hydrocarbon resin salt.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1261

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1262

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1263

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1264

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1265

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1266

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

P 93-1267

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Adhesive component. Prod. range: Confidential.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: December 7, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-30871 Filed 12-16-93; 8:45 am]
BILLING CODE 6560-50-F

[OPPTS-59974; FRL-4743-9]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 9 such PMN(s) and provides a summary of each.

DATES: Close of review periods:
Y 93-204, September 29, 1993.
Y 93-205, October 4, 1993.
Y 93-206, October 17, 1993.
Y 93-207, October 17, 1993.
Y 93-208, October 17, 1993.
Y 93-209, October 18, 1993.
Y 94-1, October 24, 1993.
Y 94-2, October 26, 1993.
Y 94-3, November 4, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG-102 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93-204

Manufacturer. Fritz Industries, Inc.
Chemical. (G) Copolymer of sulfated acrylamide with unsaturated carboxylic acid.
Use/Production. (G) Oil and gas well cement retarder. Prod. range: 12,000–48,000 kg/yr.

Y 93-205

Manufacturer. Confidential.

Chemical. (G) Modified acrylic resin.

Use/Production. (G) Textile processing agent. Prod. range: Confidential.

Y 93-206

Manufacturer. Eastman Kodak Company.

Chemical. (G) Polyester of an aromatic dicarboxylic acid and alicyclic diol.

Use/Production. (G) Contained use in an article. Prod. range: 100–500 kg/yr.

Y 93-207

Manufacturer. Confidential.

Chemical. (G) Copolymer of acrylic methacrylic esters with cyclic vinyl compounds.

Use/Production. (G) Paint additive for open, nondispersive use. Prod. range: Confidential.

Y 93-208

Manufacturer. Confidental.

Chemical. (G) Fatty acid modified polyester.

Use/Production. (G) Paint additive for open, nondispersive use. Prod. range: Confidential.

Y 93-209

Importer. Mitsui Petrochemicals (America), ltd.

Chemical. (G) A-Olefin-alkanylbenzens copolymer.

Use/Production. (G) Contained use in an article. Prod. range: 100–500 kg/yr.

Y 94-1

Manufacturer. Mace Adhesives and Coatings Company, Inc.

Chemical. (G) Aliphatic polyester-aromatic diisocyanate-polyurethane polyurea.

Use/Production. (S) Coating binder and additive/generic industrial. Prod. range: 360,000–700,000 kg/yr.

Y 94-2

Manufacturer. Brewer Science, Inc.

Chemical. (G) Polyamic acid.

Use/Production. (S) Temporary and transparent coating used in the fabrication of integrafted circuits and optoelectronic. Prod. range: Confidential.

Y 94-3

Importer. Albright and Wilson Americas, Inc.

Chemical. (G) Alkyl-terminated poly (carboxylate).

Use/Import. (G) Laundry detergent additive. Import range: Confidential.

Toxicity Data. Acute oral: LD50 2,000 mg/kg (rat). Acute dermal: LD50 2,000 mg/kg (rabbit). Eye irritation: Slight (rabbit). Skin irritation: Negligible.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: December 7, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-30872 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59328; FRL-4749-4]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-94-1. The test marketing conditions are described below.

EFFECTIVE DATE: December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Edna Pleasants, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, D.C. 20460, (202) 260-4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-94-1. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently the notice of receipt of the application was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), Rm. ETG-102 at the above address between 12 noon and 4:00 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME-94-1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-94-1

Date of Receipt: November 3, 1993. The extended comment period will close January 3, 1994.

Applicant: Nalco Chemical Company

Chemical: (G) Modified Polyacrylate, Sodium Salt.

Use: (G) Dispersant.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential. Commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present

any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: December 9, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-30868 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59330; FRL-4749-8]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-94-3. The test marketing conditions are described below.

EFFECTIVE DATE: December 13, 1993.

FOR FURTHER INFORMATION CONTACT: Shirley Howard, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, D.C. 20460, (202) 260-3780.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-94-3. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently the notice of receipt of the application was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), Rm. ETG-102 at the above address between 12:00 noon and 4:00 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME-94-3. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-94-3

Date of Receipt: November 5, 1993. The extended comment period will close (insert date 15 days after date of publication in the **Federal Register**).

Applicant: Elf Atochem North America Inc.

Chemical: (G) Triorganotin Oxide.

Use: (G) Curing Catalyst for polymer-based Coatings.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential. Commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: December 13, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-30870 Filed 12-16-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1001-DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA-100-DR), dated July 26, 1993, and related determinations.

EFFECTIVE DATE: December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for Stutsman, Benson, Nelson, and Ramsey Counties is closed effective November 15, 1993. The incident period for these counties is June 22, 1993, through and including November 15, 1993. The incident period for all other counties designated is June 22, 1993, through and including September 24, 1993.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 93-30825 Filed 12-16-93; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate

of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Mitsui O.S.K. Passenger Line, Ltd., MOPAS Cruise Line, Ltd, and Mitsui O.S.K. Lines, Ltd., 1–1 Toranomon 2-chome, Minato-ku, Tokyo 105, Japan.
Vessel: FUJI MARU

Mitsui O.S.K. Passenger Line, Ltd., MOPAS Cruise Line, Ltd. and International Energy Transport Co., Ltd., 1–1 Toranomon 2-chome, Minato-ku, Tokyo 105, Japan.
Vessel: SHIN SAKURA MARU

Dated: December 13, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–30782 Filed 12–16–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Mitsui O.S.K. Passenger Line, Ltd., 1–1 Toranomon 2-chome, Minato-ku, Tokyo 105, Japan.
Vessel: FUJI MARU

Dated: December 13, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–30783 Filed 12–16–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. 7100-0128]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Initial Board approval of changes to bank holding company reporting requirements and a request for public comments.

SUMMARY: Notice is hereby given of initial Board approval, and a request for public comment, by the Board of Governors of the Federal Reserve System (the Board) under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public), to the extension, with revision, of the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C; OMB No. 7100-0128), the Parent Company Only Financial Statements for Large Bank Holding Companies (FR Y-9LP; OMB No. 7100-0128), and the Parent Company Only Financial Statements for Small Bank Holding Companies (FR Y-9SP; OMB No. 7100-0128) through December 1996. The Federal Reserve has also given initial approval to the extension, without revision, of the Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y-9CS; OMB No. 7100-0128). The proposed reporting changes, summarized below, will be required for the March 31, 1994 reporting date.[1]

DATES: Comments must be submitted on or before January 3, 1994.

ADDRESSES: Comments, which should refer to the OMB Docket number, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to the Board's mail room B-2223 between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room B-1122 between 9:00 a.m. and 5:00 p.m., except as provided in Section 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert T. Maahs, Supervisory Financial Analyst (202/872-4935), Mark S. Benton, Senior Financial Analyst (202/452-5205), or Tina Robertson, Senior Financial Analyst (202/452-2949), Division of Research of Statistics, Board of Governors of the Federal Reserve System. A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from Federal Reserve Board Clearance Officer—Mary M. McLaughlin (202/452-3829), Chief, Financial Reports, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

General Information

Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The Y series of reports historically have been, and continue to be, the primary source of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from the Y series reports, are used to detect emerging financial problems, to review performance for pre-inspection analyses, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall analytical effort.

The Board has given initial approval, effective with the March 31, 1994 reporting date, of the revisions described in the "Proposed Report Form Revisions" section below on the FR Y-9C, FR Y-9LP, and FR Y-SP. In addition, the Board has given initial approval to revise the reporting panel to reduce the reporting burden on small bank holding companies. The revision to the reporting panel is discussed in the "Proposed Reporting Panel Revision" section below.

The Board has also given initial approval to make the appropriate reporting changes to the FR Y-9 reports that are necessitated by revisions to the March 1994 Consolidated Reports of Condition and Income (Call Report). Although specific line item revisions to the Call Report have not been finalized at this time, the Federal Reserve has given initial approval to make the appropriate reporting revisions to the FR Y-9 reports in a manner consistent with revisions that will be made to the Call Report as determined by the Federal Financial Institutions Examination Council (FFIEC).

[1] The reporting change to the FR Y-9SP is effective with the June 1994 reporting date.

Description of Affected Reports

1. *Report Title:* Consolidated Financial Statements for Bank Holding Companies
Agency Form Number: FR Y-9C
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 147,511
Estimated Average Hours per Response: Range from 5 to 1,250 hours
Number of Respondents: 1,418
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c)) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the remaining information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9C consolidated financial statements are currently filed by top-tier bank holding companies with total consolidated assets of $150 million or more and by any bank holding company with more than one subsidiary bank. In addition, the FR Y-9C must be filed by lower-tier bank holding companies that have total consolidated assets of $1 billion or more. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company and have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, risk-based capital, deposits, interest sensitivity, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries.

2. *Report Title:* Parent Company Only Financial Statements for Large Bank Holding Companies
Agency Form Number: FR Y-9LP
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 28,722
Estimated Average Hours per Response: Range from 2.0 to 13.5 hours
Number of Respondents: 1,751
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9LP financial statements are to be filed on a parent company only basis by any bank holding company filing an FR Y-9C, or by the parent company of any bank holding company that is a majority-owned subsidiary of a FR Y-9C respondent. The following bank holding companies are exempt from filing the FR Y-9LP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

3. *Report Title:* Parent Company Only Financial Statements for Small Bank Holding Companies
Agency Form Number: FR Y-9SP
OMB Docket Number: 7100-0128
Frequency: Semiannual
Reporters: Bank Holding Companies
Annual Reporting Hours: 33,600
Estimated Average Hours per Response: Range from 1.5 to 6.0 hours
Number of Respondents: 4,480
Small businesses are affected.

The information collection is mandatory [12 U.S.C. 1844(b) and (c)]. Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9SP is a parent company only financial statement filed by one bank holding companies with total consolidated assets of less than $150 million. This report, an abbreviated version of the more extensive FR Y-9LP, is designed to obtain basic balance sheet and income information for the parent company, information on intangible assets, information on intercompany transactions, and data for capital adequacy evaluation.

Proposed Report Form Revisions

FR Y-9C

The Federal Reserve has initially approved the following revisions to the FR Y-9C:

Schedule HC-A, Securities

Report as memoranda items for bank holding companies with total consolidated assets of $1 billion or more additional detail on debt securities, mortgage-backed securities and equity securities.

Schedule HC-G, Memoranda

Add a memoranda item to collect the amount of "deferred tax assets in excess of proposed regulatory capital limits."

Schedule HI, Income Statement

(1) Add a free-form memorandum item to Schedule HI, which would require bank holding companies to disclose the three largest service fees and commissions (other than service charges on deposit accounts) that exceed 10 percent of "Other service charges, commissions, and fees," Schedule HI, line item 5.b(2).

(2) Revise Memorandum item 5, "Nonrecurring transactions," to:

(a) Replace the reporting of gains and losses on the sales of assets (other than real estate owned) with gains and losses on the sales of loans;

(b) Eliminate the requirement of reporting "other nonrecurring transactions" that are 25% or more of noninterest income or noninterest expense (and the applicable income tax effect);

(c) Report gains and losses on other real estate owned; and

(d) Report the three largest noninterest income items and the three largest noninterest expense items that exceed 10% of line item 5.e, "Other noninterest income" and line item 7.c, "Other noninterest expense," respectively.

FR Y-9LP

The Federal Reserve has initially approved the following revisions to the FR Y-9LP:

(1) Add a line item to Schedule PC-B, to collect "Bank holding company (parent company only) borrowings not held by commercial bank(s) or by insiders (including directors) and their interests."

(2) Add a line item to Schedule PI-A, to collect "Payment to repurchase common stock."

FR Y-9SP

The Federal Reserve has initially approved the following revisions to the FR Y-9SP:

(1) Add the following breakout of "Equity capital":

(a) "Common stock (including related surplus)"

(b) "Preferred stock (including related surplus)"

(c) "Retained earnings (net of Treasury stock)"

(2) Add a memoranda item asking for the "total *consolidated* assets of the

bank holding company." (This item would only be completed by multibank holding companies, with total consolidated assets of less than $150 million, without any debt outstanding to the general public and not engaged in a nonbank activity either directly or indirectly involving financial leverage and not engaged in credit extending activities).

(3) Add a memoranda item that requests parent holding companies to disclose the amount of "other assets" and "other liabilities" that exceed 25 percent of the item 7, "Other assets," and item 13, "Other liabilities."

(4) Delete the memorandum item asking for "tax payments received by the bank holding company from the bank subsidiary that was retained by the bank holding company in excess of the amount paid to the IRS."

(5) Add a "Notes to the Financial Statement" section similar to that on the FR Y-9LP.

Proposed Reporting Panel Revision

The Federal Reserve has given initial approval to revise the reporting panels on the FR Y-9C, FR Y-9LP, and FR Y-9SP to reduce reporting burden for small bank holding companies. Multibank holding companies with less than $150 million in total consolidated assets, without any debt outstanding to the general public [1] and not engaged in a nonbank activity (either directly or indirectly) involving financial leverage [2] and not engaged in credit extending activities would no longer be required to file the quarterly FR Y-9C and FR Y-9LP, but would file the FR Y-9SP semiannually.

Legal Status

The Legal Division has determined that (12 U.S.C. 1844(b) and (c)) authorizes the Board to require this report.

Overall, the Board does not consider the data in these reports to be confidential. However, a bank holding company may request confidential treatment pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)). Confidentiality is also granted pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C 552(b)(8)). Section (b)(4) provides exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Section (b)(6) provides exemption for "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section (b)(8) exempts matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

The Legal Division has also determined that on the FR Y-9C, Schedule HC-H, Column A, requiring information on "assets past due 30 through 89 days and still accruing" and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Regulatory Flexibility Act Analysis

The Board certifies that the above bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The reporting requirements for the small companies require significantly fewer items of data to be submitted than the amount of information required of large bank holding companies.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, December 14, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30887 Filed 12-16-93; 8:45 am]

BILLING CODE 6210-01-F

[1] Debt outstanding to the general public is defined as debt held by parties other than financial institutions, officers, directors, and controlling shareholders of the banking organization or their related interests.

[2] Financial leverage is the use of debt to supplement the equity in a company's capital structure.

Agency Forms Under Review

Background:

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before December 30, 1993.

ADDRESSES: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room B-1122 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer: Mary M. McLaughlin (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired

only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension without revision of the following report:

1. *Report title:* Reports of Medium-Term Note Issuance
Agency form number: FR 2600m, 2600q, and 2600s
OMB Docket number: 7100-0245
Frequency: Monthly or quarterly or semiannually
Reporters: U.S. corporations
Annual reporting hours: 107
Estimated average hours per response: 0.083
Number of respondents: 4 (FR 2600m); 250 (FR 2600q); 120 (FR 2600s)
Small businesses are not affected.

General description of report

This information collection is voluntary [12 U.S.C. 225a and 353] and is given confidential treatment [5 U.S.C. 552(b)(4)].

These reports collect monthly balances of corporate medium-term note issues. Medium-term notes are interest-bearing noncallable corporate obligations with a maturity greater than 270 days but generally less than 10 years. The data are used in the estimates of corporate securities issues issued and outstanding.

Board of Governors of the Federal Reserve System, December 13, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30796 Filed 12-16-93; 8:45 am]

BILLING CODE 6210-01-F

John W. Baer and Home C. Baer, III; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 5, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. John W. Baer, Bemidji, Minnesota; to acquire an additional 40.53 percent for a total of 55.50 percent, and Homer C. Baer, III, to acquire an additional 29.53 percent for a total of 44.50 percent of the voting shares of Security State Bancshares of Bemidji, Inc., Bemidji, Minnesota, and thereby indirectly acquire Security State Bank of Bemidji, Bemidji, Minnesota.

Board of Governors of the Federal Reserve System, December 13, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30797 Filed 12-16-93; 8:45 am]

BILLING CODE 6210-01-F

FF Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 10, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. FF Bancorp, Inc., New Smyrna Beach, Florida; to become a bank holding company by acquiring at least 90 percent of the voting shares of Key Bancshares, Inc., Tampa, Florida, and thereby indirectly acquire Key Bank of Florida, Tampa, Florida.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fourth Financial Corporation, Wichita, Kansas; to acquire 100 percent of the voting shares of Bank IV Missouri, N.A., Springfield, Missouri, a *de novo* bank created by the conversion of Great Southern Savings Bank, Springfield, Missouri.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Union State Bancshares, Inc., Killeen, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Union State Bank, Florence, Texas.

Board of Governors of the Federal Reserve System, December 13, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30798 Filed 12-16-93; 8:45 am]

BILLING CODE 6210-01-F

First American Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 10, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First American Corporation*, Nashville, Tennessee; to acquire Fidelity Crossville Corp., Crossville, Tennessee, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the States of Kentucky and Tennessee.

2. *SunTrust Banks, Inc.*, Atlanta, Georgia; to acquire Trusco Capital Management, Inc., Atlanta, Georgia, and thereby engage in investment services activities pursuant to §§ 225.25(b)(4) and (b)(17) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Firstbank of Illinois Co.*, Springfield, Illinois; to acquire Rowe, Henry & Deal, Inc., Jacksonville, Illinois, and thereby engage in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

2. *Iowa National Bankshares Corporation*, Waterloo, Iowa; to acquire MidAmerica Financial Corporation, Waterloo, Iowa, and thereby engage in operating a savings association pursuant to § 225.25(b)(9); in the origination and sale of student loans pursuant to § 225.25(b)(1)(i); in trust services pursuant to § 225.25(b)(3); and in securities brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y. These activities will be conducted in the State of Iowa.

Board of Governors of the Federal Reserve System, December 13, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30799 Filed 12-16-93; 8:45 am]

BILLING CODE 6210-01-F

National City Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 5, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *National City Corporation*, Cleveland, Ohio; to engage *de novo* through its subsidiary, National City Investments Corporation, Cleveland, Ohio, in underwriting U.S. Government and agency and state and municipal securities pursuant to § 225.25(b)(16); discount and full service brokerage activities pursuant to § 225.25(b)(15)(i) and (ii); investment advisory activities pursuant to § 225.25(b)(4); management consulting services to unaffiliated depository institutions pursuant to § 225.25(b)(11); making and servicing loans pursuant to § 225.25(b)(1); foreign exchange advisory and transaction services pursuant to § 225.25(b)(17); futures commission merchant activities pursuant to § 225.25(b)(18); providing investment advice on financial futures and options on futures pursuant to § 225.25(b)(19) of the Board's Regulation Y. Applicant also proposes to engage in underwriting and dealing to a limited extent in commercial paper, municipal revenue bonds and mortgage- and consumer-receivable related securities. *Citicorp, J.P. Morgan & Co., Inc., and Bankers Trust New York Corp.*, 73 Federal Reserve Bulletin 473 (1987); private placement of all types of securities and related advisory services. *J.P. Morgan & Co., Inc.*, 76 Federal Reserve Bulletin 269 (1990) and *Bankers Trust New York Corp.*, 75 Federal Reserve Bulletin 829 (1989); acting as a "riskless principal" in buying and selling all types of securities on the order of investors. *J.P. Morgan & Co., Inc.*, 76 Federal Reserve Bulletin 26 (1990) and *Bankers Trust New York Corp.*, 75 Federal Reserve Bulletin 829 (1989); and act as agent in the purchase and sale of gold and silver bullion, and gold, silver, and platinum coins. *First Interstate Bancorp*, 71 Federal Reserve Bulletin 467 (1985) and *Standard Chartered* 76 Federal Reserve Bulletin 681 (1990).

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *The Sakura Bank, Limited*, Tokyo, Japan; to engage *de novo* through its subsidiary, Sakura Securities (U.S.A.) Inc., New York, New York, in providing investment or financial advisory services, and providing securities brokerage services in combination with investment advisory services pursuant to §§ 225.25(b)(4)(i)-(vi) and (b)(15)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 13, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30800 Filed 12-16-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Under the provisions of the Federal Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of the second phase of a two-phase national child maltreatment reporting system. This data collection and analysis program was designed by the National Center on Child Abuse and Neglect, ACF, in response to the requirements of the Child Abuse Prevention, Adoption and Family Services Act of 1988 and the Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992. This national data collection system, the National Child Abuse and Neglect Data system (NCANDS), consists of two components, the Summary Data Component (SDC) and the Detailed Case Data Component (DCDC). The first phase was approved for continued use through October 1995. This information collection relates to the approval of the Detailed Case Data System.

ADDRESSES: Copies of this information collection may be obtained from Stephen R. Smith, of the Office of Information Systems Management, ACF, by calling (202) 401–6964. Written comments and questions regarding this approval request should be sent to: Laura Oliven, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: National Child Abuse and Neglect Data System, Detailed Case Data Component.

OMB No.: New Request.

Description: The Child Abuse Prevention, Adoption and Family Services Act of 1988 (P.L. 100–294) requires the National Center on Child Abuse and Neglect (NCCAN) at the Administration for Children and Families (ACF) to establish a national data collection and analysis program on child maltreatment. Section 6(b) of the Act authorizes the Secretary to establish a national data collection program which coordinates existing State child abuse and neglect reports and which shall include: (a) Standardized data on false, unfounded, or substantiated reports; and (b) information on the number of deaths due to child abuse and neglect.

In response to the requirements of the Act, the National Center on Child Abuse and Neglect, ACF, initiated a plan for a national child maltreatment reporting system. The resulting plan proposed the design of a voluntary National Child Abuse and Neglect Data System (NCANDS) consisting of two parts: The Summary Data Component (SDC) and the Detailed Case Data Component (DCDC). The SDC, representing the first phase of the data collection, requests that State agencies administering the Basic State Grant program report aggregate data of State child abuse and neglect statistics, including data on reports, investigations, victims, and perpetrators. This data will be summarized by States from their existing information systems.

The DCDC, representing the second phase of the data collection, will provide case-level data that will allow for more detailed analysis of State data. A pilot phase of the second area of the National Child Abuse and Neglect Data System, was implemented in 1992 to test strategies for collecting case-level data from the States. The objective of the pilot was to evaluate States' capability to provide data at the case level on the characteristics of victims, caretakers, perpetrators, types of maltreatment, and services in a standard format to a central data system. The findings of the pilot test have demonstrated the value of the DCDC and enhancements of the pilot test were incorporated in the Detailed Case Data Component. Both the SDC and the DCDC are based upon the same national definitions and terminology, and are designed to provide national leadership in focusing the many individual State activities around a consistent and coherent national system for the collection and reporting of child maltreatment information.

Annual Number of Respondents: 56

Annual Frequency: 1

Average Burden Hours Per Response: 110

Total Burden Hours: 6,160

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–30739 Filed 12–16–93; 8:45 am]

BILLING CODE 4184–01–M

National Institutes of Health

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following study sections for January through March 1994, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public for approximately one-half hour at the beginning of the first session of the first day of the meeting during the discussion of administrative details relating to study section business. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each scientific review administrator, whose telephone number is provided. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the scientific review administrator to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the scientific review administrator at least two weeks in advance of the meeting.

Study section	January–March 1994 meetings	Time	Location
Allergy & Immunology, Mr. Howard M. Berman, Tel. 301–594–7234.	February 14–16 ...	8:30	Holiday Inn, Bethesda, MD.
Bacteriology & Mycology–1, Dr. Timothy J. Henry, Tel. 301–594–7228.	February 16–18 ...	8:30	Residence Inn Marriott, Bethesda, MD.
Bacteriology & Mycology–2, Dr. William Branche, Jr., Tel. 301–594–7297.	February 9–11	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Behavioral Medicine, Ms. Carol Campbell, Tel. 301–594–7165.	February 2–4	8:30	Omni Shoreham Hotel, Washington, DC.
Biochemical Endocrinology, Dr. Michael Knecht, Tel. 301–594–7247.	February 9–11	8:30	Hyatt Regency Hotel, Bethesda, MD.
Biochemistry, Dr. Adolphus P. Toliver, Tel. 301–594–7263	February 23–25 ...	8:00	The Georgetown Inn, Washington, DC.
Bio-Organic & Natural Products Chemistry, Dr. Harold Radtke, Tel. 301–594–7212.	February 24–26 ...	9:00	Holiday Inn, Bethesda, MD.
Biophysical Chemistry, Dr. John Beisler, Tel. 301–594–7149 .	February 17–19 ...	8:00	Holiday Inn, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Tel. 301–594–7145	January 26–28	9:00	Omni Shoreham Hotel, Washington, DC.
Cardiovascular, Dr. Gordon L. Johnson, Tel. 301–594–7216 ..	February 16–18 ...	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Anthony Chung, Tel. 301–594–7338.	February 23–25 ...	8:30	Marriott Hotel, Pooks Hill, Bethesda, MD.
Cellular Biology and Physiology–1, Dr. Gerald Greenhouse, Tel. 301–594–7385.	February 2–4	8:00	American Inn, Bethesda, MD.
Cellular Biology and Physiology–2, Dr. Gerhard Ehrenspeck, Tel. 301–594–7387.	February 21–23 ...	8:30	Holiday Inn, Chevy Chase, MD.
Chemical Pathology, Dr. Edmund Copeland, Tel. 301–594–7154.	February 16–18 ...	8:00	Holiday Inn, Chevy Chase, MD.
Diagnostic Radiology, Dr. Catharine Wingate, Tel. 301–594–7295.	February 28–March 2.	8:30	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Endocrinology, Dr. Syed Amir, Tel. 301–594–7229	February 16–18 ...	8:30	Holiday Inn, Georgetown, DC.
Epidemiology & Disease Control–1, Dr. Scott Osborne, Tel. 301–594–7060.	February 16–18 ...	8:30	Holiday Inn, Georgetown, DC.
Epidemiology & Disease Control–2, Dr. H. M. Stiles, Tel. 301–594–7194.	February 9–11	8:30	Hyatt Regency Hotel, Bethesda, MD.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Tel. 301–594–7344.	February 9–11	8:00	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Experimental Immunology, Dr. Calbert Laing, Tel. 301–594–7190.	February 16–18 ...	8:30	Holiday Inn, Georgetown, DC.
Experimental Therapeutics–1, Dr. Philip Perkins, Tel. 301–594–7324.	February 16–18 ...	8:30	Hyatt Regency Hotel, Arlington, VA.
Experimental Therapeutics–2, Dr. Marcia Litwack, Tel. 301–594–7366.	February 23–25 ...	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Experimental Virology, Dr. Garrett V. Keefer, Tel. 301–594–7099.	February 28–March 2.	8:30	Holiday Inn, Chevy Chase, MD.
General Medicine A–1, Dr. Harold Davidson, Tel. 301–594–7313.	February 28–March 2.	8:30	Marriott Hotel, Pooks Hill, Bethesda, MD.
General Medicine A–2, Dr. Mushtaq Khan, Tel. 301–594–7168.	February 7–9	8:30	The Georgetown Inn, Washington, DC.
General Medicine B, Dr. Daniel McDonald, Tel. 301–594–7301.	February 23–25 ...	8:00	Holiday Inn, Chevy Chase, MD.
Genetics, Dr. David Remondini, Tel. 301–594–7202	February 17–19 ...	9:00	Holiday Inn, Bethesda, MD.
Genome, Dr. Cheryl Corsaro, Tel. 301–594–7336	February 24–26 ...	9:00	Hyatt Regency Hotel, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Tel. 301–594–7257	February 21–23 ...	8:30	Hyatt Regency Hotel, Bethesda, MD.
Hematology–1, Dr. Clark Lum, Tel. 301–594–7260	February 14–16 ...	8:00	Marriott Hotel, Carmel, CA.
Hematology–2, Dr. Jerrold Fried, Tel. 301–594–7261	February 23–25 ...	8:30	Residence Inn Marriott, Bethesda, MD.
Human Development & Aging–1, Dr. Teresa Levitin, Tel. 301–594–7141.	February 23–25 ...	9:00	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Human Development & Aging–2, Dr. Peggy McCardle, Tel. 301–594–7293.	February 7–9	8:30	Hyatt Regency Hotel, Bethesda, MD.
Human Development & Aging–3, Dr. Anita Sostek, Tel. 301–594–7358.	February 23–25 ...	8:30	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Human Embryology & Development–1, Dr. Arthur Hoversland, Tel. 301–594–7253.	February 17–18 ...	8:00	Holiday Inn, Bethesda, MD.
Human Embryology & Development– 2, Dr. Arthur Hoversland, Tel. 301–594–7253.	February 3–4	8:00	Holiday Inn, Chevy Chase, MD.
Immunobiology, Dr. Betty Hayden, Tel. 301–594–7310	February 28–March 2.	8:00	Holiday Inn, Chevy Chase, MD.
Immunological Sciences, Dr. Anita Corman Weinblatt, Tel. 301–594–7175.	February 23–25 ...	8:30	Holiday Inn, Georgetown, DC.
Lung Biology and Pathology, Dr. Anne Clark, Tel. 301–594–7115.	February 16–18 ...	8:00	Holiday Inn, Chevy Chase, MD.
Mammalian Genetics, Dr. Jerry Roberts, Tel. 301–594–7051 .	February 9–11	9:00	Holiday Inn, Bethesda, MD.
Medical Biochemistry, Dr. Alexander Liacouras, Tel. 301–594–7264.	February 21–23 ...	8:30	Holiday Inn, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Tel. 301–594–7163	February 16–18 ...	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.

Study section	January–March 1994 meetings	Time	Location
Metabolic Pathology, Dr. Marcelina Powers, Tel. 301–594–7120.	March 1–3	8:00	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Krish Krishnan, Tel. 301–594–7156	February 23–25	8:00	Holiday Inn, Georgetown, DC.
Metallobiochemistry, Dr. Edward Zapolski, Tel. 301–594–7302.	February 24–26	8:30	The Georgetown Inn, Washington, DC.
Microbial Physiology & Genetics–1, Dr. Martin Slater, Tel. 301–594–7176.	February 23–25	8:30	One Washington Circle Hotel, Washington, DC.
Microbial Physiology & Genetics–2, Dr. Gerald Liddel, Tel. 301–594–7167.	February 23–25	8:00	The Georgetown Inn, Washington, DC.
Molecular & Cellular Biophysics, Dr. Nancy Lamontagne, Tel. 301–594–7147.	February 24–26	8:30	Holiday Inn, Chevy Chase, MD.
Molecular Biology, Dr. Robert Su, Tel. 301–594–7320	February 10–12	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology, Dr. Ramesh Nayak, Tel. 301–594–7169	February 3–4	8:00	Holiday Inn, Chevy Chase, MD.
Neurological Sciences–1, Dr. Andrew Mariani, Tel. 301–594–7206.	February 16–18	8:30	Holiday Inn, Chevy Chase, MD.
Neurological Sciences–2, Dr. Stephen Gobel, Tel. 301–594–7356.	February 8–10	8:00	Holiday Inn, Chevy Chase, MD.
Neurology A, Dr. Joe Marwah, Tel. 301–594–7158	February 10–12	8:00	Washington Marriott, Washington, DC.
Neurology B–1, Dr. Lillian Pubols, Tel. 301–594–7325	February 8–10	8:30	Hotel Washington, Washington, DC.
Neurology B–2, Dr. Herman Teitelbaum, Tel. 301–594–7245	February 7–9	8:30	Holiday Inn, Chevy Chase, MD.
Neurology C, Dr. Kenneth Newrock, Tel. 301–594–7123	February 23–25	8:30	Omni Georgetown Hotel, Washington, DC.
Nursing Research, Dr. Gertrude McFarland, Tel. 301–594–7080.	February 14–16	8:30	Holiday Inn, Chevy Chase, MD.
Nutrition, Dr. Sooja Kim, Tel. 301–594–7174	February 14–16	8:30	Hyatt Regency Hotel, Bethesda, MD.
Oral Biology & Medicine–1, Dr. Larry Pinkus, Tel. 301–594–7315.	February 7–9	8:30	ANA Westin Hotel, Georgetown, DC.
Oral Biology & Medicine–2, Dr. Priscilla Chen, Tel. 301–594–7287.	January 31– February 2	8:30	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Tel. 301–594–7282.	February 9–11	8:30	Holiday Inn, Bethesda, MD.
Pathobiochemistry, Dr. Zakir Bengali, Tel. 301–594–7317	February 9–11	8:30	Holiday Inn, Chevy Chase, MD.
Pathology A, Dr. Mohindar Poonian, Tel. 301–594–7112	February 1–4	7:00 p.m.	Holiday Inn, Crowne Plaza, Rockville, MD.
Pathology B, Dr. Martin Padarathsingh, Tel. 301–594–7192	January 26–30	7:00 p.m.	Big Sky Resort, Big Sky, MT.
Pharmacology, Dr. Joseph Kaiser, Tel. 301–594–7241	February 23–25	8:30	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Tel. 301–594–7166	February 23–25	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Physiological Chemistry, Dr. Jerry Critz, Tel. 301–594–7322	February 17–19	8:30	The Marriott at Tysons Corner, Vienna, VA.
Physiology, Dr. Michael A. Lang, Tel. 301–594–7332	February 9–11	8:30	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Radiation, Dr. Paul Strudler, Tel. 301–594–7152	February 9–11	8:30	Holiday Inn, Don Fernando, Taos, NM.
Reproductive Biology, Dr. Dennis Leszczynski, Tel. 301–594–7218.	February 7–9	8:30	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Abubakar A. Shaikh, Tel. 301–594–7368.	February 7–9	8:30	Holiday Inn, Chevy Chase, MD.
Respiratory & Applied Physiology, Dr. Everett Sinnett, Tel. 301–594–7220.	February 14–16	8:30	One Washington Circle Hotel, Washington, DC.
Safety & Occupational Health, Dr. Gopal Sharma, Tel. 301–594–7130.	February 16–18	8:00	Holiday Inn, Chevy Chase, MD.
Sensory Disorders & Language, Dr. Jane Hu, Tel. 301–594–7269.	February 9–11	8:30	Holiday Inn, Capitol Hill, Washington, DC.
Social Sciences & Population, Dr. Robert Weller, Tel. 301–594–7340.	February 3–5	9:00	Hyatt Regency Hotel, Bethesda, MD.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Tel. 301–594–7258.	February 7–8	8:00	Holiday Inn, Chevy Chase, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Tel. 301–594–7308.	February 23–25	2:00 p.m	Holiday Inn, Bethesda, MD.
Toxicology–1, Dr. Alfred Marozzi, Tel. 301–594–7278	February 9–11	8:00	American Inn, Bethesda, MD.
Toxicology–2, Dr. Alfred Marozzi, Tel. 301–594–7278	February 16–18	8:00	American Inn, Bethesda, MD.
Tropical Medicine & Parasitology, Dr. Jean Hickman, Tel. 301–594–7078.	February 9–11	8:00	Holiday Inn, Bethesda, MD.
Virology, Dr. Rita Anand, Tel. 301–594–7108	February 9–11	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Visual Sciences A, Dr. Luigi Giacometti, Tel. 301–594–7132	February 23–25	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Visual Sciences B, Dr. Leonard Jakubczak, Tel. 301–594–7198.	February 9–11	8:30	Omni Shoreham Hotel, Washington, DC.
Visual Sciences C, Dr. Carole Jelsema, Tel. 301–594–7311	February 16–18	8:00	Holiday Inn, Chevy Chase, MD.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30880 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on January 12, 1994 at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 8 a.m. to 8:30 a.m. on January 12 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 8:30 a.m. until adjournment on January 12. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Christopher Beisel, Scientific Review Administrator, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Solar Building, room 4C01, Rockville, Maryland 20892, telephone 301–402–4596, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30873 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; National Advisory General Medical Sciences Council; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on January 27 and 28, 1994, the Shannon Building, Wilson Hall, Bethesda, Maryland.

This meeting will be open to the public on January 27, from 8:30 a.m. to 2 p.m. for opening remarks; the report of the Acting Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on January 27 from 2 p.m. to 5:30 p.m., and on January 28, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, room 4A52, Bethesda, Maryland 20892, telephone: 301–496–7301, FAX 301–402–0224, will provide a summary of the meeting, and a roster of Council members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Ann Dieffenbach in advance of the meeting. Dr. W. Sue Shafer, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, room 938, Bethesda, Maryland 20892, telephone: 301–594–7751 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers (MARC); and 93.375, Minority Biomedical Research Support (MBRS))

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30874 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meetings of the Board of Regents and Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on January 25–26, 1994, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Extramural Programs Subcommittee will meet on January 24 in the 5th floor Conference Room, Building 38A, from 2 p.m. to approximately 3:30 p.m., and will be closed to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 4:30 p.m. on January 25 and from 9 a.m. to adjournment on January 26 for administrative reports and program discussions. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign-language interpretation or other reasonable accommodations, should contact Mrs. Karin Colton at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the entire meeting of the Extramural Programs Subcommittee on January 24 will be closed to the public, and the regular Board meeting on January 25 will be closed from approximately 4:30 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health)

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30879 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; National Advisory Mental Health Council; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Mental Health Council of the National Institute of Mental Health for January 1994.

The meeting will be open to the public as indicated below for the discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Joanna L. Kieffer, Committee Management Officer, National Institute of Mental Health, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Area Code 301, 443–4333, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meeting may be obtained from the contact person indicated.

Committee name: National Advisory Mental Health Council

Contact: Carolyn Strete, Ph.D., Parklawn Building, room 9–105, Telephone: 301–443–3367

Meeting date: January 24–25, 1994

Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Open: January 25, 9 a.m. to adjournment

Closed: January 24, 9:30 a.m. to 5 p.m.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award)

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30875 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke, Board of Scientific Counselors; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research, on January 12–14, 1994, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, 20892.

This meeting will be open to the public from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 5 p.m. on January 13th in the Medical Board Room, Bldg. 10, rm. 2C116, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on January 12th and from 9 a.m. until adjournment on January 14th in Bldg. 10, rm. 5S235, for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Ms. Mary Whitehead, Federal Building, room 1012, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Executive Secretary, Dr. Irwin J. Kopin, Director, Division of Intramural Research, NINDS, Building 10, room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496–4297, will furnish a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No 13.854, Biological Basis Research)

Dated December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30876 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Meeting

Pursuant to Public Law 92–463, notice is hereby given of meetings of committees of the National Institute of Neurological Disorders and Stroke (NINDS).

These meetings will be open to the public to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific

Review Administrator listed for the meeting.

Name of Committee: The Planning Subcommittee of the National Advisory Neurological Disorders and Stroke Council

Date: February 2, 1994

Place: National Institutes of Health, Building 31, Conference room 8A28, 9000 Rockville Pike, Bethesda, MD 20892

Open: 1:30 p.m.–3 p.m.

Agenda: To discuss program planning and fiscal matters.

Closed: 3 p.m.—recess

Agenda: To discuss specific grant applications.

Name of Committee: National Advisory Neurological Disorders and Stroke Council

Dates: February 3–4, 1994

Place: National Institutes of Health, Building 31, Conference room 10, 9000 Rockville Pike, Bethesda, MD 20892

Open: February 3, 9 a.m.–1 p.m.

Agenda: A report by the Acting Director, NINDS, a report by the Acting Director, Division of Extramural Activities, NINDS, a scientific presentation by an NINDS intramural scientist and a presentation by the Director of the NIH Office of Alternative Medicine.

Closed: February 3, 1 p.m.—recess; February 4, 8:30 a.m.—adjournment

Agenda: To review grant applications.

Executive Secretary: Constance W. Atwell, Ph.D., Acting Director, Division of Extramural Activities, NINDS, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9248.

Name of Committee: Neurological Disorders Program Project Review A Committee

Dates: February 15–17, 1994

Place: La Jolla Cove Motel, 1155 Coast Boulevard, La Jolla, CA 92037

Open: February 15, 7:30 p.m.–8 p.m.

Agenda: Reports by the Scientific Review Administrator on Committee concerns.

Closed: February 15, 8 p.m.—recess; February 16, 8:30 a.m.—recess; February 17, 8:30 a.m.—adjournment

Agenda: To review grant applications.

Scientific Review Administrator: Dr. Katherine Woodbury, Federal Building, room 9C–14, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9223.

Name of Committee: Neurological Disorders Program Project Review B Committee

Dates: February 21–23, 1994

Place: Miyako Hotel, Japan Center, 1625 Post Street San Francisco, CA 94115

Open: February 21, 7 p.m.–7:30 p.m.

Agenda: Reports by the Scientific Review Administrator on Committee concerns.

Closed: February 21, 7:30 p.m.—recess; February 22, 8:30 a.m.—recess; February 23, 8:30 a.m.—adjournment

Agenda: To review grant applications.

Scientific Review Administrator: Dr. Paul Sheehy, Federal Building, room 9C–10, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9223.

Name of Committee: Training Grant and Career Development Review Committee

Dates: February 24–25, 1994

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814

Open: February 24, 8 a.m.—8:30 a.m.

Agenda: Reports by the Scientific Review Administrator on Committee concerns.

Closed: February 24, 8:30 a.m.—recess; February 25, 8 a.m.—adjournment

Agenda: To review grant applications.

Scientific Review Administrator: Dr. Alfred W. Gordon, Federal Building, room 9C–14, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9223.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30877 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meetings of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on January 26–28, 1994, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the subcommittee will be in room 3C05, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on January 26 from 2 p.m. until 3 p.m. for the discussion of policy issues. The meeting of the full Council will be open to the public on January 27 from 8:30 a.m. until recess for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders and on January 28 from 8:30 a.m. to approximately 9:30 a.m. for a report on extramural programs of the Division of Communication Sciences and Disorders.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting of the Planning Subcommittee on January 26 will be closed to the public from 3 p.m. to adjournment. The meeting of the full Council will be closed to the public on January 28 from approximately 9:30 a.m. until adjournment. The closed portions of the meetings will be for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meetings may be obtained from Dr. John C. Dalton, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, room 400C, Bethesda, Maryland 20892, 301–496–8693. A summary of the meetings and rosters of the members may also be obtained from his office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Dalton at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: December 13, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–30878 Filed 12–16–93; 8:45 am]

BILLING CODE 4140–01–M

Office of Inspector General; Program Exclusions: November 1993

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of November 1993, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all other Federal non-procurement programs.

Subject, city, state	Effective date
Program-related convictions:	
Bertoncini, Betty J, Tampa, FL	12/02/93
Cole, Richard A, Erie, PA	12/07/93
Culpepper, Susan E, Beaumont, TX	12/07/93
Desrochers, Robert Edmond, Los Angeles, CA	11/30/93
Didio, Grace Higgs, Seguin, TX	12/07/93
Domingo, Marie Monares, Pleasanton, CA	11/30/93
Ekong, Edwin E, Kankakee, IL	12/07/93
Humphrey, Charles F, Columbus, IN	12/07/93
Jeanty, Hubert, Philadelphia, PA	12/07/93
Khan, Wazir A, Bronx, NY	12/08/93
Krol, Samuil, Brooklyn, NY	12/08/93
Levin, Maximo, New York, NY	12/08/93
Malekzodeh, Assadullah, Gaithersburg, MD	12/07/93
Mohyuddin, Ali, Roslyn, NY	12/08/93
Ragone, Barry Michael, Miami Beach, FL	12/02/93
Riaz, Hussain B, Brooklyn, NY	12/08/93
Richard A Cole, M.D., Inc, Erie, PA	12/07/93
Schwartz, Julian, Bayside, NY	12/08/93
Wilkes, Bridgette Ladon, Tulsa, OK	12/07/93
Williams, Carter J, Woodstock, MD	12/07/93
Zawada, Stanley, Bayside, NY	12/08/93
Patient abuse/neglect convictions:	
Beggs, Daniel M, Auburn, ME	12/08/93
Davis, Elaine Robinson, Russellville, AL	12/02/93
Fultz, Edward Eugene, Huntsville, AL	12/02/93
Kleinman, Dennis, Hackensack, NJ	12/08/93
Lowe, Wiley Dee, Lubbock, TX	12/07/93
Mitchell, Jerome, Wetumpka, AL	12/02/93
Morris, Gregory J, Lubbock, TX	12/07/93
Murray, Rhonda D, Tampa, FL	12/02/93
Pennington, Rosa, Goodsprings, AL	12/02/93
Peterman, Kevin K, Cedar Rapids, IA	12/08/93
Richardson, Clifton K III, Mobile, AL	12/02/93
Ross, Robert Pernell, Blountstown, FL	12/02/93
Rushton, Michael J, Whitinsville, RI	12/08/93
Trail, Rebecca M, Catonsville, MD	12/07/93
Wood, David L, Oakham, MA	12/08/93
Conviction for health care fraud:	
Hartigan, Sharon, Bangor, ME	12/08/93
Kissam, Jeffrey R, Ocean Township, NJ	12/08/93
Walton, Michael M, Chicago, IL	12/07/93
Conviction—obstruction of an investigation:	
Harrington, Joyce Catchings, Jackson, MS	12/07/93
License revocation/suspension:	
Hands, Susan L, Kittery, ME	12/08/93
Mustafa, Jamal D, Ft Washington, MD	12/07/93
Entities owned/controlled by convicted:	
Edison family medical center, Miami, FL	12/02/93
LTC Personal Care Home, Jackson, MS	12/07/93
Medical Home Care Services Inc, Alhambra, CA	11/30/93
Tergio Associates Inc, Forest Hills, NY	12/08/93
TLC Home Health Care Corp, Alhambra, CA	11/30/93
Failure to provide payment information:	
Brown, William Charles, Tyler, TX	12/20/93
Brown, William Frank, Alpharetta, GA	12/20/93
Brown, Neta J, Tyler, TX	12/20/93
Crest Medical Centers, Inc, Decatur, GA	12/20/93
Crest Medical of Wauchula, Decatur, GA	12/20/93
Healthcrest Management Group, Decatur, GA	12/20/93
Default on HEAL loan:	
Appleyard, Sean, Bay St Louis, MS	12/12/93
Baker, Betty J, Miami, FL	12/12/93
Bell, Clayton E, Riverdale, GA	12/12/93
Bissing, Mark S, Coralville, IA	12/18/93
Boley, Glenn E, Richmond, VA	12/17/93
Britt, Esther C, New York, NY	12/18/93
Brown, Dale A, Shawnee Mission, KS	12/18/93
Bryant, Edward O Jr, Yonkers, NY	12/18/93
Burke, Kenneth P, Augusta, ME	12/18/93
Cherry, Nanci A, Chicago, IL	12/17/93
Davidson, Clifford M, Knoxville, TN	12/18/93
Davis, Michael E, Shaker Hgts, OH	12/18/93
Elie, Miguel E, New Orleans, LA	12/17/93
Gerlecz, Steven M, Lynn Haven, FL	12/12/93
Glassman, Clifford, Pasadena, CA	12/10/93
Goldstein, Debora M (Cruz), Morristown, NJ	12/18/93
Guldan, Michael T, Chestertown, NY	12/18/93
Hosler, Bryan K, Toledo, OH	12/18/93
Hotz, Michael K, Kansas City, MO	12/18/93
Hoyt, John A, Atlanta, GA	12/12/93
Hrywnak, Severko, Chicago, IL	12/17/93
Hundagen, Joyce M, Portland, OR	12/10/93
Johnson, James E, Nashville, TN	12/12/93
Kalp, Kathy A, Jones Mill, PA	12/17/93
Marangu, Jean Ann Makena, Los Angeles, CA	12/10/93
Markinson, Andrea B, Valley Stream, NY	12/18/93
Marshall, David L, Portland, OR	12/10/93
McBride, Michael L, Salem, OR	12/10/93
Miles, Robert L Jr, Orangeburg, SC	12/12/93
Nebiosini, Richard A, Port Jefferson, NY	12/18/93
Pinotti, Katherine Manning, Houston, TX	12/17/93
Pinotti, Jeffrey H, Houston, TX	12/17/93
Rozier, Frederick N, Columbus, OH	12/18/93
Schoenman, Kirk L, Dublin, OH	12/18/93
Smith, Dennis M, Houston, TX	12/17/93
Sok, Han, Woodside, NY	12/18/93
Solimini, Anthony G Jr, East Boston, MA	12/18/93
Streight, John A, Ponca City, OK	12/17/93
Sutliff, James F, Syracuse, NY	12/18/93
Szubin, Richard A, W Caldwell, NJ	12/18/93
Thompson, Anthony W, Chicago, IL	12/17/93
Thompson, James D, Fair Oaks, CA	12/10/93
Truelove, Glenda G, Birmingham, AL	12/12/93
Vazagov, Zachial A, Arcadia, CA	12/10/93
Vinci, Pamela N, Lindenhurst, NY	12/18/93
Vosburgh, Stephen E Jr, Sterling, VA	12/17/93
Wachter, John P, Pittsburgh, PA	12/17/93
Wadley, Ted A, Aurora, CO	12/18/93
Wakefield, Elizabeth A, McGregor, MN	12/18/93
Wanke, Glenn P, Fullerton, CA	12/10/93
White, Howard D, Phoenix, AZ	12/10/93
Williams, David L, Indianapolis, IN	12/17/93
Williams, Brent A, Cincinnati, OH	12/18/93
Wilson, Eileen T, Grandview, MO	12/18/93

Subject, city, state	Effective date
Yenzer, James W Jr, Pensacola, FL	12/12/93
Yudichak, Connie A (Tanski), Larksville, PA	12/17/93
Peer Review Organization Cases:	
Coelho, Aldemir T, Tempe, AZ	11/21/93

* * * * *

Dated: December 6, 1993.

James F. Patton,

Director, Health Care Administrative Sanctions, Office of Investigations.

[FR Doc. 93-30793 Filed 12-16-93; 8:45 am]

BILLING CODE 4110-60-P

Public Health Service

Establishment of Commission on Research Integrity

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. appendix II) and also to section 222 of the Public Health Service Act (42 U.S.C. 217a), the Office of the Assistant Secretary for Health announces the establishment on November 4, 1993, by the Secretary of Health and Human Services, of the Commission on Research Integrity. The Commission is mandated by section 162 of the National Institutes of Health Revitalization Act of 1993 (Pub. L. 103-43), which amended section 493 of the Public Health Service Act (42 U.S.C. 289b).

Designation: Commission on Research Integrity.

Purpose: The Commission shall develop recommendations for the Secretary of Health and Human Services on the administration of section 493 of the Public Health Service Act (as amended and added by section 361 of the National Institutes of Health Revitalization Act of 1993 (Pub. L. 103-43)).

Unless renewed by appropriate action prior to its expiration, the Commission will terminate on November 4, 1995.

Dated: December 2, 1993.

Thomas Marford,

Deputy Director, Office of Research Integrity.

[FR Doc. 93-30791 Filed 12-16-93; 8:45 am]

BILLING CODE 4160-17-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on November 26, 1993.

(Call PHS Reports Clearance Officer on (202) 690-7100 for copies of requests)

1. Community Mental Health Services Block Grant Application FY 1995—The Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (42 U.S.C. 300 x 1-9) authorized block grants to States for the purpose of providing community based mental health services. Under provision of the law, States may receive allotments only after an application is approved by the Secretary. This submission provides the format and instruction for State applications. Respondents: State or local governments; Number of Respondents: 59; Number of Responses Per Respondent: 1; Average Burden Per Response: 320 hours; Estimated Annual Burden hours: 18,880 hours.

2. Evaluation of the National AIDS Information and Education Program Activities—New—This evaluation consists of a series of data collections among various target audiences. The information collected will be used to ensure that the education materials are understood by and have an appropriate effect upon the target population, and to assess the effects of implementing AIDS/HIV prevention marketing program activities. Respondents: Individuals or households: Number of Respondents: 24,920; Number of Responses Per Respondent: 1.209; Average Burden per Response: 0.237 hour; Estimated Annual Burden: 7,124 hours.

3. Honolulu Heart Program/Honolulu-Asia Aging Study—0925-0122 (Revision)—(including need and proposed use). This prospective epidemiologic study will examine and follow, for a period of 2 years, 3,700 surviving members of the Honolulu Heart Program cohort, 73 to 94 years of age, who have been tested with a dementia screening instrument. The overall goal of this study is to identify incidence and prevalence of dementing illness in Japanese-American men. This information will be used to develop strategies for prevention of dementia and other impairments related to aging. Respondents: 1,233; Number of Responses Per Respondent: 1; Average Burden Per Response: 2.25 hours; Estimated Annual Burden: 2,774.

4. An Evaluation of the Feasibility of an Injury Risk Factor Surveillance System—New—A national telephone survey of 5,000 adults in the United States will be conducted to evaluate the feasibility of using such a survey in monitoring injury risk factors and selected Year 2000 Injury Objectives. Additionally, data about childhood lead poisoning will be collected. Respondents: Individuals or households; Number of Respondents: 8,500; Number of Responses per Respondent: 1; Average Burden per Response: 0.261 hour; Estimated Annual Burden: 2,216 hours.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated below at the following address: Shannan Koss, Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: December 13, 1993.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 93-30792 Filed 12-16-93; 8:45 am]

BILLING CODE 4160-17-M

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment Programs; Application Receipt Dates; Collection

AGENCY: Substance Abuse and Mental Health Services Administration.

ACTION: Correction notice.

On October 28, 1993, the Center for Substance Abuse Treatment (CSAT) announced in the **Federal Register** (Vol. 58, No. 207, page 58011) that it anticipated receiving approximately $5 million in drug forfeiture funds to support new projects in FY 1994 under its Demonstration Grant Program for Residential Treatment for Women and their Children (RWC), CFDA No. 93.102. This notice also indicated that CSAT anticipated a May 10, 1994 receipt date for applications and that additional guidance about the RWC program would be published early in calendar year 1994.

This notice corrects the October 28 notice. CSAT will not publish additional guidance or accept new applications for the RWC program in 1994.

For additional information regarding CSAT programs, contact: Ms. Marjorie Cashion, Center for Substance Abuse Treatment, Rockwall II, 10th floor, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-8923.

Dated: December 12, 1993.

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93-30749 Filed 12-16-93; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-93-1917; FR-3350-N-62]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: December 17, 1993.

ADDRESSES: For further information, contact Mark Johnston, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 10, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 93-30691 Filed 12-16-93; 8:45 am]

BILLING CODE 4210-29-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-04-4140-05; LEAS]

Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Request for Comments; Preparation of Environmental Impact Statement; Cyprus Casa Grande Mine; Tohono O'Odham Nation, Papago Indian Reservation, Arizona.

SUMMARY: Written comments pertaining to the preparation of an Environmental Impact Statement for the proposed large scale open pit copper mine at Cyprus Casa Grande Mine, Tohono O'Odham Nation, Papago Indian Reservation, Arizona, will be accepted until February 2, 1994. A revised list of meeting times was published in the December 13, 1993, issue of the **Federal Register**, page 65191. Send comments to Paul J. Buff, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. For further information, contact Moon Hom, Mining Engineer, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona, (602) 780-8090.

Dated: December 13, 1993.

Gail Acheson,

Acting District Manager.

[FR Doc. 93-30824 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-32-M

[NM-920-04-4110-03]

Availability of the Final Dark Canyon Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Final Dark Canyon EIS, 30-day Availability Period.

SUMMARY: The Bureau of Land Management (BLM), New Mexico State Office, announces the availability to the public of the Final Dark Canyon EIS. This document analyzes the impacts on the environment from reasonable foreseeable development of oil and gas resources within Dark Canyon, located in Eddy County, New Mexico. This includes the Proposed Action, Yates Energy Corporation's Application for Permit to Drill (APD) the Diamondback Federal #1 Well on Federal Lease NM-62161.

The Dark Canyon EIS Study Area encompasses approximately 8,320 acres and lies about 20 miles southwest of the City of Carlsbad. The Study Area is in the BLM's Carlsbad Resource Area and totally encompasses the Dark Canyon Special Management Area (SMA), noted for its rugged and scenic landscape and cave resources.

The intent of the Final EIS is to provide a full discussion of all significant impacts and cumulative effects that may result from full field development. It informs the BLM decisionmaker and the public of reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.

The BLM is the lead agency for the EIS, since the Bureau is responsible for permitting oil and gas exploration on Federal mineral estate. The National Park Service (NPS) is a cooperating agency because the EIS Study Area borders Carlsbad Caverns National Park to the south, and could impact cave resources, including Lechuguilla Cave.

Following issuance of the Draft EIS on September 18, 1992, the BLM has developed modifications to the Draft EIS based on 1,100 substantive comments received from agencies and the public during the public comment period and a formal public hearing held in Carlsbad, NM, on October 22, 1992. Modifications included the development of two additional alternatives and inclusion of additional scientific data provided by public commentors and a scientific panel.

The Bureau of Land Management has selected Alternative G in the Final EIS as the agency's Preferred Alternative (see the supplemental information section below). The National Park Service, Southwest Region, the cooperating agency for this project, has concurred with BLM in the selection of Alternative G as the Preferred Alternative.

ADDRESSES: Following issuance of the Final EIS, there is a 30-day period of availability of the document prior to issuance of a Record of Decision (ROD) for this project. Questions or concerns on this project and its potential impacts can be directed to: Bureau of Land Management, New Mexico State, ATTN: Joe Incardine (NM-911), P.O. Box 27115, Santa Fe, New Mexico, 87502-0115. Copies of the Final EIS are also available at this address. Public reading copies are available at the Federal depository libraries in New Mexico and public libraries within Eddy, Chaves, and Lea Counties. Copies of the Final EIS have also been sent to over 800 individuals and organizations on the mailing list for this project.

FOR FURTHER INFORMATION CONTACT: Joe Incardine, EIS Team Leader, at (505) 438-7458, or at the above address.

SUPPLEMENTARY INFORMATION: The major resources identified as potentially being impacted are BLM and NPS administered caves, especially Lechuguilla Cave on adjacent NPS lands. The Dark Canyon Final EIS analyzes seven alternatives in order that management concerns and the issues raised during scoping and the public comment period on the Draft EIS may be addressed for drilling and producing oil and gas resources in this area. The alternatives to the proposed action incorporate management prescriptions for the proposed Diamondback Federal #1 Well and other foreseeable wells which specifically protect cave resources through detection, avoidance and mitigation.

The seven alternatives developed for the EIS are as follows: (A) The proposed action and conventional drilling within the EIS Study Area; (B) No action alternative—Deny the APD and future drilling within the EIS Study Area; (C) Directionally drill and use enhanced precautionary operations within the EIS study area; (D) Directionally drill from an existing well pad, and use enhanced precautionary operations within the EIS Study Area; (E) Directionally and vertically drill to multiple targets and use enhanced precautionary operations within the EIS study area; (F) Deny the APD and Future Development on the two Yates Leases. Use enhanced precautionary operations on other leases and close the EIS Study Area to future leasing; and (G) Approve the Diamondback Well with location moved approximately 300 meters to the northeast; establish a "Cave Protection Zone" (CPZ) within the EIS Study Area that would prohibit surface occupancy on existing leases; drilling would be allowed with the EIS Study Area but outside the CPZ with enhanced precautionary operations; future leasing would be denied within the EIS Study Area.

Under the Preferred Alternative (G), foreseeable wells would avoid all known lineaments, natural potential anomalies, and significant helium measurements, as well as being located outside the CPZ, in order to avoid the likelihood of impacting an undiscovered cave on fracture on BLM lands which may communicate with Lechuguilla Cave on adjacent NPS lands. It also allows Yates Energy Corporation the opportunity to drill a vertical well in reasonable proximity to their intended target to test all potentially productive formations. Mitigative measures would be used to diminish the impacts to unknown caves. Monitoring by a BLM drilling representative would ensure that approved mitigative measures are executed by operators within the Study Area.

Formal and informal public participation has occurred throughout the EIS process. The notice of Intent (NOI) to prepare this EIS was published in the **Federal Register** on October 10, 1991, which also announced the public scoping meeting held in Carlsbad, New Mexico. Following publication of the NOI, a scoping package of information and a questionnaire was sent to over 200 agencies and interested publics soliciting comments on the proposed action, mitigative measures, and alternatives. Since then, three additional letters were sent to provide updates to the public on the issues and alternatives and solicit comments on proposed mitigative measures.

Following issuance of the Draft EIS on September 18, 1992, the BLM held a formal public hearing on the EIS on October 22, 1992, in Carlsbad, NM. The public comment period for the Draft EIS ran from September 18 to November 20, 1992, during which time 538 comment letters were received in addition to the 19 speakers presenting statements at the public hearing. During the preparation of the Final EIS, additional formal and informal meeting were held with interested publics and other agencies to develop additional information and new alternatives for the proposal based on public comment. These meetings included an informal open house and public meeting held in Carlsbad, NM, on May 27, 1993, to inform the public of the progress on this project, including two additional alternatives and additional scientific data used in the analysis of impacts and development of mitigation measures.

Dated: December 2, 1993.

Frank Splendorica,

Acting State Director.

[FR Doc. 93-30322 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-FB-M

[CA-050-02-7123-55-6251; CACA 29583]

Realty Action; Termination of Classifications and Disposal of Public Land in Shasta, Butte, and Trinity Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; termination of recreation and public purposes classification and termination of small tract classification, and disposal of public land in Shasta, Butte, and Trinity Counties, California through exchange.

SUMMARY: Bureau of Land Management Order of Classification Recreation and Public Purposes C3-1131 Dated May 20, 1971 affecting T. 33 N., R. 9 W., Section 5, NE¼SE¼, Mount Diablo Base and Meridian and Bureau of Land Management Order of Classification Small Tract 506, dated January 4, 1957 affecting T. 33 N., R. 9 W., Section 8, E½SW¼, N½NW¼SW¼, SE¼NW¼SW¼, N½SE¼NW¼SW¼ and Section 17, N½NE ¼, SW¼NE¼, E½NW¼, N½N½SW¼, Mount Diablo Base and Meridian, is hereby terminated in its entirety and the land opened to operation under the public land and mining laws.

The following described public lands are being considered for exchange to Sierra Pacific Industries, under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Note: Not all lands identified below may be involved in the exchange. Some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the offered and selected lands.

M.D.M., Shasta County

T. 36 N., R. 1 E.
Sec. 28: E½E½
T. 35 N., R. 1 E.
Sec. 2: Lots 1, 2, 7, 8
T. 35 N., R. 2 E.
Sec. 7: Lot 4
Sec. 18: Lots 3, 4, 6
Sec. 30: SE¼SW¼
T. 34 N., R. 3 E.
Sec. 7: SW¼SE¼
T. 33 N., R. 2 E.
Sec. 3: NE¼SW¼
Sec. 8: S½SW¼, W½SE¼, NE¼SE¼
Sec. 9: SE¼NW¼, NE¼NE¼, S½NE¼, E½SW¼, W½SE¼, NE¼SE¼
Sec. 10: N½NW¼, SW¼NW¼
Sec. 17: N½NW¼, SW¼NW¼, NW¼NE¼
Sec. 25: SE¼NE¼

M.D.M., Trinity County

T. 33 N., R. 9 E.
Sec. 5: Lots 52, 53, 56-59, 61, S½NE¼, SE¼NW¼, E½SE¼SW¼, SE¼
Sec. 7: NE¼NE¼SE¼
Sec. 8: Lots 1-3, S½SE¼, E½SW¼, N½NW¼SW¼, SE¼NW¼SW¼, N½SW¼NW¼SW¼, NE¼NE¼
Sec. 17: N½NE¼, SW¼NE¼, E½NW¼, N½N½SW¼
T. 32 N., R. 11 W.
Sec. 26: S½SW¼
Sec. 27: SW¼, W½SE¼, SE¼SE¼
Sec. 33: E½E½
Sec. 34: W½, W½E½
Sec. 35: E½NE¼SE¼, SW¼NE¼SE¼, E½NW¼NE¼SE¼, SE¼SE¼, E½NE¼
Sec. 36: NW¼, SW¼NE¼
T. 31 N., R. 11 W.

Sec. 2: Lots 5, 6, S½NW¼NE¼NE¼, S½NE¼NE¼NE¼, N½SW¼NE¼NE¼, N½SE¼NE¼NE¼, SE¼SE¼NE¼NE¼
T. 32 N., R. 9 W.
Sec. 31: Lot 7
Sec. 32: Lots 1–7, 9–29, 31
Sec. 33: Lots 1–4, 6–17, 21–23
Sec. 34: Lots 1–10, E½E½

M.D.M., Butte County

T. 19 N., R. 6 E.
Sec. 3: Lot 21
Sec. 10: All that portion of the public land located in the N½.

Total acres: 5,874.47, more or less.

In exchange for these lands, the Federal government would acquire private lands within the Gene Chappie/Shasta Off-Highway-Vehicle (OHV) project area and lands within the Sacramento River Management Area.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is the disposal of isolated and fragmented tracts of public land. This is consistent with the land tenure adjustments objective of the Redding Resource Area Management Plan. The exchange would benefit the general public and the private sector. The public interest would be well served by completing the exchange.

Lands to be transferred from the United States will be evaluated in accordance with the National Environmental Protection Act, and will be subject to the following reservations, terms and conditions:

1. A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

2. Any authorized land uses, such as rights-of-ways will be identified as prior existing rights.

The mineral rights will also be exchanged in this realty action. This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands that are being considered for this exchange. Those lands were previously segregated for exchange by CA 31254; this notice supersedes that action. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated for settlement, location, and entry under the public lands land minerals laws. The segregative effect shall terminate upon issuance of patent, or upon publication in the **Federal Register** of a termination of the segregation, or two years from the date of this notice, whichever occurs first.

EFFECTIVE DATE: On or before January 31, 1994, the public is invited to comment on the proposed exchange. Comments may be sent to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: John Coon, Realty Specialist, at the address above.

Michael Truden,
Acting Area Manager.

[FR Doc. 93–30755 Filed 12–16–93; 8:45 am]

BILLING CODE 4310–40–M

[NV–930–4210–05; N–57242]

Realty Action: Lease/Purchase for Recreation and Public Purposes

AGENCY: Bureau of Land Management, DOI.

ACTION: Recreation and Public Purpose Lease/Purchase.

SUMMARY: This notice cancels in its entirety the Notice of Realty Action published in the **Federal Register** on August 12, 1993 (58 FR 42983; FR DOC 93–19293). The following described public land in Laughlin, Clark County, Nevada has been examined and found suitable for lease/purchase for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The American Legion Post #60 proposes to use the land for a post facility with meeting rooms and recreation facilities.

Mount Diablo Meridian, Nevada

T. 32 S., R. 66 E.,
Sec. 15: SW¼SW¼SW¼.

Containing 10.00 acres, more or less.

The land is not required for any federal purpose. The lease/purchase is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement 30.00 feet in width along the north boundary, 30.00 feet in width along the east boundary, 50.00 feet in width along the south boundary, 50.00 feet in width along the west boundary, and includes a 25.00 foot spandrel on the northwest corner, a 54.00 foot spandrel on the southwest corner, a 25.00 foot spandrel on the southeast corner, and a 15.00 foot spandrel on the northeast corner, in favor of Clark County for roads, public utilities and flood control purposes.

2. Those rights for a water line and related appurtenances purposes which have been granted to Big Bend Water District by Permit No. N–53356 under the Act of October 21, 1976.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/purchase under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/purchase until after the classification becomes effective.

Dated: December 3, 1993.

Gary Ryan,
District Manager, Las Vegas, NV.

[FR Doc. 93–30772 Filed 12–16–93; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–930–4210–06; A–903, A–2680, A–6607, A–6898, A–7131, AR–07159, AR–09295, AR–010798, AR–010997, AR–011033, AR–035731]

Proposed Modification and Continuation of Withdrawals; Opportunity for Public Comment, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years the following Public Land Orders (PLO); 1545 (AR–010798), 1583 (AR–09295), 1626 (AR–011033), 3263 (AR–07159,

AR–010997), 4144 (AR–035731), 4373 (A–903), 4704 (A–2680), 5352 (A–6607), 5354 (A–7131), and 5384 (A–6898), which withdrew National Forest System lands in the Apache-Sitgreaves National Forests for use as recreation sites, roadside zones and specialized areas. All sites are currently being utilized for the purposes withdrawn and the Forest Service intends to continue these uses. It does not anticipate any significant change in land use on the subject lands in the near future. All lands either through the original order or a modification were closed to appropriation under the mining laws only, other uses applicable to national forest lands and mineral leasing were allowed to continue.

The proposal is to continue closure to the mining laws and to establish a 20-year limit to the withdrawals. The withdrawn areas presently are, or soon will be, the smallest unit possible necessary to meet existing requirements.

DATES: Comments on the proposed action should be received on or before March 17, 1994.

ADDRESSES: Comments should be sent to the Arizona State Director, Bureau of Land Management (BLM), 3707 North 7th Street, Phoenix, Arizona, 85014, or P.O. Box 16563, Phoenix, Arizona, 85011–6563.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, 602–650–0509.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture, Forest Service, proposes that PLO's 1545, 1583, 1626, 3263, 4144, 4373, 4704, 5352, 5354, and 5384, withdrawing lands for uses such as recreation sites, roadside zones, and other specialized uses be modified and generally continued for 20 years. Some of the orders have been utilized to withdraw other sites for a variety of uses. These will be the subject of other notices and other withdrawal review reports.

All sites, or portions thereof, remaining withdrawn will continue to be closed to operations under the mining laws only. They will continue to be open to mineral leasing and other uses applicable to national forest lands. Continuation of the withdrawals as proposed in this notice are in conformance with existing forest plans. All sites listed below are located within the boundaries of the Apache-Sitgreaves National Forests in Coconino, Apache, Navajo and Greenlee Counties. The specific sites being reviewed and on which the proposal is to continue the withdrawal are identified and described as follows:

All withdrawals are in the Gila and Salt River Meridian.

Recreation Areas

Luna Lake Recreation Area (AR–07159)

T. 5 N., R. 31 E.,
Sec. 8, SE¼SE¼;
Sec. 9, S½;
Sec. 16, N½ and N½N½SE¼;
Sec. 17, N½NE¼, SE¼NE¼, E½SW¼NE¼, N½N½W½SW¼NE¼, E½NE¼NW¼, E½W½NE¼NW¼, N½NE¼SE¼NW¼ and NE¼NW¼SE¼NW¼.

The areas described aggregate 897.04 acres.

Basin Lake-Big Lake-Crescent Lake Recreation Area (AR–07159)

T. 6 N., R. 28 E.,
Sec. 29, S½SE¼;
Sec. 32, N½, N½S½.

The areas described aggregate 560.00 acres.

Greens Peak Lookout Recreation Area (AR–07159)

T. 8 N., R. 26 E.,
Sec. 2, S½SW¼SW¼;
Sec. 11, NW¼NW¼.

The areas described aggregate 60.00 acres.

Greer Recreation Area (AR–07159)

T. 7 N., R. 27 E.,
Sec. 1, Lots 3 and 4;
Sec. 2, Lot 1.
T. 8 N., R. 27 E.,
Sec. 36, N½NE¼SW¼.

The areas described aggregate 140.00 acres.

Jacques Lake Recreation Area (AR–011033)

T. 9 N., R. 22 E.,
Sec. 10, E½E½W½SW¼, E½NE¼NW¼, NW¼NE¼, SW¼SE¼ and E½E½;
Sec. 15, NE¼, E½NW¼ and E½E½NW¼NW¼.

The areas described aggregate 530.00 acres.

L.D.S. Church Recreation Area (AR–011033)

T. 9 N., R. 22 E.,
Sec. 16, Lots 3, 4, 7, 10, 11 and 16–18.

The areas described aggregate 446.38 acres.

Knoll Lake Recreation Area (AR–035731)

T. 12 N., R. 12 E.,
Sec. 15, W½W½;
Sec. 16, ½ (portion thereof);
Sec. 21, NE¼, NW¼SE¼ (portion thereof);
Sec. 22, NW¼NW¼.

The areas described aggregate 523.20 acres.

Black Canyon Lake Recreation Area (A–903)

T. 11 N., R. 15 E.,
Sec. 13, W½SW¼, SW¼SW¼, SW¼SE¼;
Sec. 14, E½SE¼;
Sec. 23, NE¼, N½SE¼;
Sec. 24, Lot 2, Those portions of Lot 3 and H.E.S. #190 lying within what would be NW¼SE¼, W½NE¼ and N½SW¼.

The areas described aggregate 840.00 acres.

Woods Canyon Lake Recreation Area (AR–010798, A–903)

T. 11 N., R. 13 E.,
Sec. 13, SW¼;
Sec. 14, S½SW¼NE¼, SE¼SE¼NW¼, SE¼;
Sec. 23, NE¼, E½SE¼, E½W½SE¼ (ptns thereof);
Sec. 24, W½W½, NE¼NW¼;
Sec. 25, W½NW¼ (ptn thereof) that portion lying within the Sitgreaves National Forest;
Sec. 26, NE¼NE¼ (ptn thereof) that portion lying within the Sitgreaves National Forest.

The areas described aggregate 905.00 acres.

Willow Springs Lake Recreation Area (A–903)

T. 11 N., R. 14 E.,
Sec. 19, S½SE¼;
Sec. 20, S½SW¼, SW¼SE¼;
Sec. 28, W½W½;
Sec. 29, All;
Sec. 30, E½;
Sec. 31, N½NE¼;
Sec. 32, N½N½;
Sec. 33, NW¼NW¼ (except area included in PLO 2082).

The area described aggregate 1,600.00 acres.

Fools Hollow Lake Recreation Area (A–7131, A–010798)

(corrected description)

T. 10 N., R. 21 E.,
Sec. 11, Lots 1, 6–8;
Sec. 12, Lots 1–20, S½SW¼NE¼, S½NW¼;
Sec. 13, Lots 1–17;
Sec. 14, Lots 1, 2 and 7.

The areas described aggregate 640.42 acres.

Bear Canyon Lake Recreation Area (A–6898)

T. 12 N., R. 13 E.,
Sec. 20, S½SW¼, SW¼SE¼, W½SE¼SE¼;
Sec. 29, W½E½E½, W½NE¼, NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 32, NW¼NE¼, NE¼NW¼.

The areas described aggregate 740.00 acres.

Chevelon Canyon Lake Recreation Area (A–6898)

T. 13 N., R. 14 E.,
Sec. 14, W½NW¼SW¼, S½S½, E½NW¼SE¼, NE¼SE¼;
Sec. 15, E½E½SE¼;
Sec. 23, Lots 1 and 2, NE¼, N½NW¼, E½SE¼NW¼, E½NE¼SW¼, W½SE¼, 14.44 acres of HES #197 in E½E½SE¼;
Sec. 24, Lots 1 and 2, S½SW¼NE¼, NW¼, E½SW¼, SW¼SE¼, 14.91 acres of HES #197 in W½W½SW¼;
Sec. 25, 3.07 acres of HES #197 in NW¼NW¼NW¼;
Sec. 26, E½.

The areas described aggregate 1,423.07 acres.

Roadside Zones and Specialized Areas

U.S. Highway #666 Roadside Zone (AR–09295)

A strip of land 300 feet on each side of the center line of U.S. Highway #666 where it traverses national forest land through the following legal subdivisions;

T. 1 N., R. 29 E. (unsurveyed)
Sec. 5 (ptn thereof);

Sec. 7, SE¼;
Sec. 8, N½;
Sec. 17, W½;
Sec. 18, E½;
Sec. 20, W½ and SE¼;
Sec. 27, SW¼SW¼;
Sec. 28, W½ and S½SE¼;
Sec. 29, NE¼NE¼;
Sec. 34, W½ and W½SE¼.
T. 2 N., R. 29 E. (unsurveyed)
Sec. 2, W½ and SW¼SE¼;
Sec. 11, E½;
Sec. 12, W½;
Sec. 13, W½;
Sec. 14, NE½NE¼ and S½;
Sec. 23, W½;
Sec. 27, N½;
T. 2 N., R. 29 E., (unsurveyed) (continued)
Sec. 28, SE¼NE¼ and S½;
Sec. 29, S½;
Sec. 32, (ptn thereof).
T. 3 N., R. 29 E., (unsurveyed)
Sec. 27, S½;
Sec. 28, S½;
Sec. 33, N½;
Sec. 34, N½ and SE¼;
Sec. 35, SW¼.
T. 1 S., R. 29 E., (unsurveyed)
Sec. 2, E½ and NW¼;
Sec. 10, SE¼SE¼NE¼ and SE¼;
Sec. 11, N½ and SE¼;
Sec. 15, E½;
Sec. 22, E½ and E½SW¼;
Sec. 27, W½;
Sec. 34, W½.
T. 2 S., R. 29 E.,
Sec. 3, W½;
Sec. 9, SE¼SE¼SW¼, and SE¼;
Sec. 10, NW¼;
Sec. 16, W½;
Sec. 20, SE¼NE¼ and SE¼;
Sec. 21, NW¼;
T. 2 S., R. 29 E., (continued)
Sec. 29, NW¼NE¼ and W½;
Sec. 30, SE¼NE¼ and NE¼SE¼;
Sec. 32, NW¼ and SW¼SE¼.
T. 3 S., R. 29 E.,
Sec. 5, E½;
Sec. 8, NW¼ and SE¼;
Sec. 16, W½;
Sec. 17, E½.

The areas described aggregate approximately 2,822.00 acres.

Springerville-Globe Roadside Zone, U.S. Highway #60 (FH 30) (AR-011033)

A strip of land 200 feet on each side of the center line of U.S. Highway 60 through the following legal subdivisions;

T. 10 N., R. 23 E.,
Sec. 12, N½;
Sec. 11, S½N½ and N½S½;
Sec. 10, S½;
Sec. 9, S½S½;
Sec. 16, N½N½NE¼;
Sec. 17, N½N½;
Sec. 18, S½N½ and N½NW¼SW¼.
T. 10 N., R. 22 E.,
Sec. 13, S½SE½NE¼ and N½S½;
Sec. 14, N½S½;
Sec. 15, E½SE¼;
Sec. 30, Lot 1.
T. 10 N., R. 21 E.,
Sec. 25, E½NE¼, E½SE¼SW¼NE¼, S½N½NW¼SE¼, S½NW¼SE¼, SW¼SE¼, S½SE¼SW¼, S½N½SE¼SW¼;
Sec. 36, E½NW¼ and SW¼.
T. 9 N., R. 21 E.,
Sec. 1, NW¼SW¼NE¼;
Sec. 2, Lots 5, 13 and 14.

The areas described aggregate approximately 520.00 acres.

Holbrook-Show Low Roadside Zone, State Highway #77, (FH 17) (AR-011033)

A strip of land 200 feet on each side of the center line of State Highway #77 through the following legal subdivisions.

T. 11 N., R. 21 E.,
Sec. 1, Lots 1, 2 and 6.
T. 11 N., R. 22 E.,
Sec. 18, E½E½W½, SW¼SW¼SE¼;
Sec. 19, NE¼NW¼, W½NE¼ and SE¼;
Sec. 29, SW¼;
Sec. 30, E½NE¼ and NE¼SE¼;
Sec. 32, W½.
T. 10 N., R. 22 E.,
Sec. 5, Lots 2 and 3, SW¼NE¼ and W½SE¼;
Sec. 8, E½NE¼ and NE¼SE¼;
Sec. 16, NW¼.

The area described aggregates approximately 327.00 acres.

Arizona State Highway #73 Roadside Zone (AR-07159)

A strip of land 200 feet from the center line on each side of State Highway #73 where it traverses Forest land, through the following legal subdivisions;

T. 8 N., R. 24 E.,
Secs. 25, 26, 27, 34, 35 and 36, (ptns thereof).
T. 8 N., R. 27 E.,
Secs. 14, 22, 23, 24, 27, 28, 29, 30, 31 and 32, (ptns thereof).

The area described aggregates approximately 450.00 acres

U.S. Highway #260 Roadside Zone (AR-07159)

A strip of land 200 feet from the centerline on each side of U.S. Highway 260, where it traverses Forest land, through the following legal subdivisions;

T. 8 N., R. 29 E.,
Sec. 13, (ptns thereof).
T. 5 N., R. 30 E.,
Secs. 2, 3 and 12, (ptns thereof).
T. 6 N., R. 30 E.,
Secs. 4, 5, 9, 15, 16, 22, 23, 26, 27 and 34, (ptns thereof).
T. 7 N., R. 30 E.,
Secs. 4, 21, 28, 29 and 32, (ptns thereof).
T. 8 N., R. 30 E.,
Sec. 7, 17, 18, 20, 28 and 29, (ptns thereof).
T. 5 N., R. 31 E.,
Secs. 7, 16, 17, 18, 21, 22 and 23, (ptns thereof).

The area described aggregates approximately 681.00 acres.

U.S. Highway #666 Roadside Zone (AR-07159)

A strip of land 200 feet from the centerline on each side of U.S. Highway #666, where it traverses Forest land, through the following legal subdivisions;

T. 3 N., R. 29 E.,
Secs. 2, 3, 10, 11, 15, 16, 20, 21, 28, 29, 32 and 33, (ptns thereof).
T. 4 N., R. 29 E.,
Secs. 35 and 36, (ptns thereof).
T. 4 N., R. 30 E.,
Secs. 1, 11, 12, 14, 15, 20, 21, 22, 28, 29, 31 and 32, (ptns thereof).
T. 4½ N., R. 30 E.,
Secs. 13, 23, 24, 25, 26, 35 and 36, (ptns thereof).
T. 5 N., R. 30 E.,
Secs. 11, 14, 22, 23, 26, 27, and 34, (ptns thereof).
T. 4½ N., R. 31 E.,
Sec. 18, (ptns thereof).

The land described aggregates approximately 2,932.00 acres.

Phelps Ranger Station Botanical Area (AR-07159)

T. 6 N., R. 27 E.,
Sec. 9, S½SE¼NE¼, NE¼SE¼ and E½NW¼SE¼;
Sec. 10, W½NW¼SW¼.

The area described aggregates approximately 100.00 areas.

Castle Creek Watersheds Research Area (AR-010997)

T. 4 N., R. 30 E., (unsurveyed)
Sec. 1, S½;
Sec. 2, E½SE¼ and E½W½SE¼;
Sec. 11, E½E½ and E½W½E½;
Sec. 12, All;
Sec. 13, N½ and N½SW¼;
Sec. 14, NE¼, N½SE¼ and SE¼SE¼.
T. 4 N., R. 31 E.,
Sec. 6, SW¼;
Sec. 7, W½ and W½E½;
Sec. 18, NW¼ and NW¼NE¼.

The area described aggregates approximately 2,840.00 acres.

Phelps Cabin Research Natural Area (A-6607)

T. 6 N., R. 27 E.,
Sec. 9, S½SW¼NE¼, W½NW¼SE¼, S½SE¼;
Se. 10, SE¼NW¼SW¼, W½SW¼SW¼, W½E½SW¼SW¼;
Sec. 15, N½NW¼NW¼;
Sec. 16, Lot 1, N½NE¼.

The area described aggregates 291.94 acres.

The total area described in this publication aggregates 20,269.05 acres of National Forest System lands within the boundaries of the Apache-Sitgreaves National Forest. These lands are located in Coconino, Navajo, Apache and Greenlee Counties. The purpose of the withdrawals is for the protection of recreation areas, roadside zones and specialized use areas from prospecting and possible disturbances caused by mining.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with these proposed actions may present their views in writing to this office. The authorized officer of the BLM will undertake such investigation as is necessary to determine the existing

and potential demand for the land and its resources.

A report will be prepared for consideration to determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of a final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Herman L. Kast,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 93-30756 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-32-M

[ID-943-4210-06; IDI-28824]

Opening of Land in Proposed Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The temporary 2-year segregation of a proposed withdrawal of 40.00 acres of National Forest System land for the Kirby Dam expires January 23, 1994, after which the land will be opened to the mining laws. The land which is located within the Boise National Forest has been and will remain open to surface entry and mineral leasing.

EFFECTIVE DATE: January 24, 1994.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706-2500, 208-384-3166.

SUPPLEMENTARY INFORMATION: A notice of Proposed Withdrawal published in the **Federal Register** (57 FR 2927 January 24, 1992), segregated the land described therein for up to 2 years from the mining laws, subject to valid existing rights, but not from the mineral leasing laws or other forms of disposition which may by law be made of National Forest System land. The 2-year segregation expires January 23, 1994. The withdrawal application will continue to be processed unless it is canceled or denied. The land is described as follows:

Boise Meridian

T. 5 N., R. 11 E.,
Sec. 5, lot 8.

The area described contains 40.00 acres in Elmore County.

At 9 a.m. on January 24, 1994, the lands described above shall be opened to location and entry under the United States mining laws, subject to valid existing withdrawals, other segregations of record, and the requirements of applicable law.

Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: December 6, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93-30742 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-GG-M

[NM-920-4210-06; NMNM 5046]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service proposes that a 1,207.43-acre withdrawal for the Diener Canyon Road No. 3178 Recreation Zone, and the Post Office Flat and Jamboree Area continue for an additional 20 years. The land will remain closed to mining, but has been and will remain open to surface entry and mineral leasing.

DATES: Comments should be received by March 17, 1994.

ADDRESSES: Comments should be sent to State Director, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502-0115, 505-438-7501.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, 505-438-7594.

SUPPLEMENTARY INFORMATION: The United States Forest Service proposes that the existing land withdrawal made by Public Land Order No. 4847, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988).

The land is described as follows:

New Mexico Principal Meridian

Cibola National Forest

Diener Canyon Road No. 3178 Recreation Zone

A strip of land 500 feet on each side of the centerline of Forest Development Road No. 3178, through the following legal subdivisions:

T. 11 N., R. 12 W.,
Sec. 6, lots 1, 2, and 7, S½NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 7, lot 1, W½NE¼ (excepting Moises Nos.1 and 9 mining claims), E½NW¼ (excepting Moises No. 1 mining claim, Mineral Survey No. 2222) and SE¼;
Sec. 17, SW¼NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 18, E½NE¼, NW¼NE¼, NE¼SE¼, and SW¼SE¼;
Sec. 19, NE¼NE¼, W½NE¼, and E½NW¼;
Sec. 20, NW¼NE¼, N½NW¼, and N½S½NW¼.

T. 12 N., R. 12 W.,
Sec. 20, NE¼, SE¼SW¼, NE¼SE¼, and W½SE¼;
Sec. 29, W½NE¼, E½W½, SW¼SW¼, and NW¼NW¼SE¼;
Sec. 31, SE¼NE¼, SE¼SW¼NE¼, and SE¼;
Sec. 32, N½NW¼ and SW¼NW¼.

Post Office Flat Campground and Jamboree Area

T. 11 N., R. 12 W.,
Sec. 19, E½ of lot 3, and W½NE¼SW¼.

The area described contains 1,207.43 acres in Cibola County.

The purpose of the withdrawal is to protect the Diener Canyon Road No. 3178 Recreation Zone, and the Post Office Flat Campground and Jamboree Area. The withdrawal segregates the land from location and entry under the mining laws, but not the public land laws or mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Realty, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: December 8, 1993.

Tessie R. Anchondo,

Acting State Director.

[FR Doc. 93-30731 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-FB-M

Bureau of Reclamation

Proposed Tongue River Dam Project/ Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992, Big Horn County, Montana

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation), acting as lead Federal agency, will prepare a draft environmental impact statement (DEIS) on the Tongue River Dam Project portion of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Settlement Act). As trustee for the Northern Cheyenne Indian Tribe (Tribe), the Federal Government has identified the following trust assets that may be affected by the implementation of the Tongue River Project aspects of the Settlement Act: (1) the Tribe's existing water supplies held in Tongue River Reservoir, (2) the safety of downstream tribal lands, and , (3) additional water for the Tribe's use in the Tongue River Basin. Taking reasonable actions necessary to protect these trust assets has been identified as the proposed action.

FOR FURTHER INFORMATION CONTACT: Mr. James Wedeward, Project Manager, Bureau of Reclamation, Montana Projects Office, Attention: MT-100, PO Box 30137, Billings MT 59107; telephone: (406) 657-6075.

SUPPLEMENTARY INFORMATION: Years of negotiations between the Federal Government (acting as trustee for the Tribe) and the State of Montana culminated in 1991 with the signing of a water rights compact. Subsequently, the compact was ratified by the Congress, and the Settlement Act was signed into law (Pub. L. 102-374). During the negotiations, an opportunity was identified to rehabilitate the presently unsafe State-owned Tongue River Dam and provide additional water to the Tribe by raising the dam.

The following alternatives will be evaluated in the DEIS, along with others identified during the compliance process which address the stated trust asset protection and criteria for reasonableness:

(1) Repair and raise the dam:

(2) Repair the dam, without raising it, and provide additional water through purchase from willing sellers;

(3) Repair the dam, without raising it, and provide additional water from alluvial ground water;

(4) Variations on repairing the dam, raising it an incremental amount, and providing the remainder of the additional water through purchase or from ground water; and

(5) No action.

The DEIS is expected to be completed and available for review and comment in mid-1994. The document is being prepared by Morrison-Maierle/CSSA under contract with the Montana Department of Natural Resources and Conservation. A decision on which alternative to implement will not be made until a final environmental impact statement is completed and reviewed.

During the process of negotiating the compact, the State of Montana and Reclamation hosted numerous public and agency informational meetings. More recently, public scoping meetings were held during March 1993 at the following locations in Montana: Busby, Lame Deer, Crow Agency, Birney, Birney Village, Ashland, Miles City, and Billings; and in Sheridan, Wyoming. Notification of the pending meetings was given in the Billings, Miles City, Hardin, Colstrip, Forsyth, and Sheridan newspapers a minimum of 2 weeks prior to the meeting. A scoping document containing the schedule for all meetings was mailed to approximately 2,100 individuals and entities on the Northern Cheyenne Indian Reservation and surrounding towns and cities. Additional scoping meetings may be held later to narrow significant issues. The results of the March scoping meetings have been compiled in a summary document. Anyone interested in obtaining a copy of that document, wanting more information relative to the study, or who has suggestions for other alternatives to be evaluated or for other significant environmental issues, should contact Mr. James Wedeward at the above address.

Dated: December 9, 1993.

Donald R. Glaser,

Deputy Commissioner.

[FR Doc. 93-30808 Filed 12-16-93; 8:45 am]

BILLING CODE 4310-94-M

Fish and Wildlife Service

Availability of Draft Pacific Coastal Barriers Study and Accompanying Maps of Areas Under Consideration for Inclusion in the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of section 6 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503), the Secretary of the Interior is required to provide to Congress a study which examines the need for protecting undeveloped coastal barriers along the Pacific coast of the United States and to prepare maps identifying the boundaries of those undeveloped coastal barriers bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the Coastal Barrier Resources System. This notice is to announce the availability of the Draft Pacific Coastal Barriers Study and the accompanying maps of areas under consideration for inclusion in the Coastal Barrier Resources System.

DATES: Comments should be received from the appropriate Governors no later than March 17, 1994. Comments from all other interested parties should be received no later than February 15, 1994.

ADDRESSES: Written comments should be addressed to the Regional Director, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181.

FOR FURTHER INFORMATION CONTACT: Paula Levin, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181, (503) 231-2068.

SUPPLEMENTARY INFORMATION: On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA) into law (Pub. L. 97-348). Section 4 of CBRA establishes the Coastal Barrier Resources System (System) as referred to and adopted by Congress, and sections 5 and 6 prohibit all new Federal expenditures and financial assistance within the units of that System unless specifically excepted by the Act. Coastal barrier units were designated along the Atlantic and Gulf of Mexico coasts.

On November 16, 1990, President Bush signed the Coastal Barrier Improvement Act of 1990 (CBIA) into law (Pub. L. 101-591). The CBIA greatly expanded the size of the System by adding coastal barriers of the Great Lakes, as well as additional areas along the Atlantic and Gulf of Mexico coasts. The CBIA amended section 1321 of the National Flood Insurance Act of 1968 to prohibit the issuance of new Federal flood insurance within "otherwise protected areas" identified on the maps referred to in the CBIA.

Section 6 of the CBIA directed the Secretary of the Interior to prepare a study which examines the need for protecting undeveloped coastal barriers

along the Pacific coast of the United States and to prepare maps identifying undeveloped coastal barriers bordering the Pacific Ocean south of 49 degrees north latitude (approximately the Canada-Washington State boundary) which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System. Furthermore, the study is to examine:

(A) The potential for loss of human life and damage to fish, wildlife, and other natural resources, and the potential for the wasteful expenditure of Federal revenues given the geologic differences of the coastal barriers along the Pacific coast as opposed to those found along the Atlantic and Gulf coasts; and

(B) The differences in extreme weather conditions which exist along the Pacific coast as opposed to those found along the Atlantic and Gulf coasts.

In 1992, the Fish and Wildlife Service (Service) identified and mapped all undeveloped coastal barriers of the Pacific coast which meet the definition of undeveloped coastal barriers as defined by section 2 of the CBIA and defined in the revised criteria published in the **Federal Register** March 4, 1985 (50 FR 8698). The Service prepared draft maps for the states of Washington, Oregon, California, and Hawaii. The draft maps were released for a 90 day public review and comment period. Separate Notices of Availability for each state were published in the **Federal Register** on April 23, 1992 (57 FR 14846) for Oregon; May 29, 1992 (57 FR 22821) for Washington; July 7, 1992 (57 FR 29883) for California; and August 14, 1992 (57 FR 36668) for Hawaii. Following the 90 day public comment periods, the draft maps were subsequently revised to address any technical errors noted during the comment period. The revised draft maps and all comments received were forwarded to the appropriate Governors for their review and use in eventual formulation of their recommendations as to which areas the Governors felt should be included in the System.

With publication of this notice, the Service is making available for public review and comment the Draft Pacific Coastal Barriers Study and the accompanying maps required by section 6 of the CBIA. All comments received during the public comment period will be forwarded to the appropriate Governors. By the end of the Governor's review period, the Service is soliciting the recommendations of the appropriate Governors for which areas should be included in the System. The recommendations of the Governors will be forwarded to Congress in their entirety along with the recommendations of the Secretary in the final Pacific Coastal Barriers Study and accompanying maps.

Appendices A through D of this notice list the proposed Coastal Barrier Resources System Units for the Pacific coast which are identified on the accompanying maps.

Public Comments Solicited

The Service solicits written comments on the Draft Pacific Coastal Barriers Study and the accompanying maps described above. All comments received by the dates specified above will be considered prior to the Department's submission to Congress of the final study and maps as required by section 6 of the CBIA.

Public Meetings

Informational meetings open to the public will be held to explain the program, provide information, and to answer any questions. The meetings will be held at the following locations:

Hawaii

All meetings will run from 7 p.m.–9 p.m. with the exception of one Saturday morning meeting on the Island of Maui, which will run from 10 a.m.–12 p.m.

Monday, 1/10/94: Mitchell Pauole Center, 90 Inoa Street, Kaunakakai, Molokai

Tuesday, 1/11/94: Kealakehe Elementary School, 74–5118 Kealakaa Street, Kailua-Kona, Hawaii 96740

Wednesday, 1/12/94: Kilauea School, Kolo Road, Kilauea, Kauai, Hawaii 96754

Thursday, 1/13/94: Windward Community College, 45–720 Keaahala Road, Kaneohe, Oahu, Hawaii 96744

Saturday, 1/15/94: Kahului School, 410 South Hina Avenue, Kahului, Maui, Hawaii 96732

California

All meetings will run from 6 p.m. to 8 p.m.

Wednesday, 1/5/94: County Administration Building, 105 E. Anapamu St., 4th Floor, Santa Barbara, CA 93101

Thursday, 1/6/94: U.S. Fish and Wildlife Service, National Wildlife Refuge, Southern California Coastal Complex, Tijuana Estuary Visitor Center, 301 Caspian Way, Imperial Beach, CA 92032

Tuesday, 1/18/94: Monterey County Health Department, Conference Room, 1200 Aquajito Road, Monterey, CA 93940

Thursday, 1/20/94: Humboldt County Clerk of Board Office, 825 5th. Street, Conference Room A, Eureka, CA 95501

Oregon

All meetings will run from 6 p.m. to 8 p.m.

Wednesday, 1/5/94: SW Oregon Community College, Empire Hall, room 104, 1988 Newmark Avenue, Coos Bay, OR 97420

Thursday, 1/6/94: Tillamook Public Utility District, 1115 Pacific Avenue, Tillamook, OR 97141

Washington

All meetings will run from 7 p.m. to 9 p.m.

Wednesday, 1/5/94: Pt. Townsend Community Center, Lawrence and Tyler Streets, 1433 14th. Street, Pt. Townsend, WA 98368

Thursday, 1/6/94: Anacortes City Hall, 6th. and Q, Lower Level, Anacortes, WA

Tuesday, 1/11/94: Peninsula Church Center, 5000 N. St., P.O. Box 268, Seaview, WA 98644

Wednesday, 1/12/94: Grays Harbor College, 1620 Edward P. Smith Dr., Aberdeen, WA 98520

Copies of the Draft Pacific Coastal Barriers Study are available upon request from the U.S. Fish and Wildlife Service at the address specified above. Copies of the accompanying maps are available for public inspection, during normal business hours, at the following locations:

All States

U.S. Fish and Wildlife Service, Ecological Services, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181, telephone: 503–231–2046

U.S. Fish and Wildlife Service, Ecological Services, 4401 N. Fairfax Drive, room 400, Arlington, Virginia 22203, telephone: 703–358–2201

Hawaii

Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813, telephone: 808–541–2749

Kauai National Wildlife Refuge Complex, U.S. Fish and Wildlife Service, Kilauea, Kauai, Hawaii 96754, telephone: 808–828–1413

Hakalau Forest National Wildlife Refuge, U.S. Fish and Wildlife Service, Federal Building, 154 Waianuenue Avenue, room 219, Hilo, Hawaii 96720, telephone: 808–969–9909

Hawaii Office of State Planning, State Coastal Zone Management, 1177 Alakea Street, 2nd Floor, Honolulu, Hawaii 96813, telephone: 808–587–2880

California

Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008, telephone: 619–431–9440

Ventura Field Office, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, suite 100, Ventura, California 93003, telephone: 805–644–1766

Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, room E–1803, Sacramento, California 95825, telephone: 916–978–4613

San Francisco Bay National Wildlife Refuge, U.S. Fish and Wildlife Service, 1 Marshlands Road, Fremont, California 94536, telephone: 510–792–0222

Humboldt Bay National Wildlife Refuge, U.S. Fish and Wildlife Service, 1020 Ranch Road, Loleta, California 95551, telephone: 707–733–5406

California Coastal Commission, 45 Fremont, suite 2000, San Francisco, California 94105–2219, telephone: 415–904–5280

Oregon

Portland Field Office, U.S. Fish and Wildlife Service, 2600 S.E. 98th Avenue, suite 100, Portland, Oregon 97266, telephone: 503–231–6179

Oregon Coastal Refuges, U.S. Fish and Wildlife Service, 2030 Marine Science Drive, Newport, Oregon 97365–5296, telephone: 503–867–4550

Oregon Coastal/Ocean Management Program, Department of Land and Conservation Development, 1175 Court Street NE, Salem, Oregon 97310–0590, telephone: 503–373–0092

Bandon Public Library, P.O. Box 128, Bandon, Oregon 97411, telephone: 503–347–3221, located in the Bandon City Hall on Highway 101

Seaside Public Library, 60 N. Roosevelt Boulevard, Seaside, Oregon 97138, telephone: 503–738–6742

Hatfield Marine Science Center, Guin Library, 2030 Marine Science Drive, Newport, Oregon 97365, telephone: 503–867–0249

North Bend Public Library, 1800 Sherman Avenue, North Bend, Oregon 97459, telephone: 503–756–0400

Washington

Olympia Field Office, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE., suite 102, Olympia, Washington 98501–2192, telephone: 206–753–9440

Willapa National Wildlife Refuge, U.S. Fish and Wildlife Service, HC 01, Box 910, Ilwaco, Washington 98624–9797, telephone: 206–484–3482

Nisqually National Wildlife Refuge, U.S. Fish and Wildlife Service, 100 Brown Farm Road, Olympia, Washington 98506, telephone: 206–753–9467

Washington Coastal Refuges, U.S. Fish and Wildlife Service, 1638 Barr Road South, Port Angeles, Washington 98382, telephone: 206–457–8451

Washington Department of Ecology, Shorelands and Coastal Management Program, Baran Hall. St. Martins College, Lacey, Washington 98504, telephone: 206–459–6784

In addition to the above locations copies of the accompanying maps may be reviewed at the county planning and zoning offices for all coastal counties in each state.

Appendix A—Proposed Washington Coastal Barrier Resources System Units

County	Unit No.	Unit name
Whatcom	WA–01	Semiahmoo Spit/Drayton Harbor.
Skagit	WA–04	Sinclair Island.
San Juan	WA–05	Waldron Island.
San Juan	WA–06	Henry Island/Nelson Bay.
San Juan	WA–07	Fisherman Bay North.
San Juan	WA–08	Fisherman Bay South.
San Juan	WA–09	Low Point.
San Juan	WA–10	San Juan Island South.
San Juan	WA–11	Mud Bay/Shoal Bight.
San Juan	WA–12	Spencer Spit.
San Juan	WA–13	Decatur Head.
Skagit	WA–14	Guemes Island.
Skagit	WA–15	Padilla Bay.
Skagit	WA–15A	Ship Harbor.
Island	WA–17	Ben Ure Spit.
Island	WA–18	Cranberry Lake.
Island	WA–19	South of Cranberry Lake.
Island	WA–20	Arrowhead Beach.
Island	WA–21	Polnell Point.
Island	WA–22	Crescent Harbor Area.
Island	WA–23	Oak Harbor Area.
Island	WA–24	Whidbey Island NW.
Island	WA–25	Whidbey Island SW.
Island	WA–26	Crockett Lake.
Island	WA–27	Race Lagoon.
Island	WA–28	Whidbey Island East.
Island	WA–29	Lake Hancock.
Island	WA–30	Useless Bay Area.
Island	WA–31	Cultus Bay.
Kitsap	WA–33	Battle Point.
King	WA–34	Point Heyer.
Pierce	WA–35	McNeil Island.
Mason	WA–37	Buffingtonis Lagoon.
Pierce	WA–38	Vaughn Bay.
Pierce	WA–39	Henderson Bay Area.
Kitsap	WA–40	Stavis Bay.
Jefferson	WA–41	Zelatched Point.
Jefferson	WA–42	Tarboo Bay.
Jefferson	WA–43	Toandos Peninsula East.
Jefferson	WA–44	Thorndyke Bay.
Jefferson	WA–46	Bywater Bay.
Kitsap	WA–47	Fowlweather Bluff East.
Kitsap	WA–48	Fowlweather Bluff.
Jefferson	WA–49	Oak Bay East.
Jefferson	WA–50	Oak Bay.
Jefferson	WA–51	Oak Bay West.
Jefferson	WA–52	Kilisut Harbor.
Jefferson	WA–53	Kala Point.
Jefferson	WA–54	Port Discovery Area.
Clallam	WA–55	Thompson Spit.
Clallam	WA–56	Sequim Bay.
Clallam	WA–57	Kilakala Point.
Clallam	WA–58	Dungeness Spit.
Clallam	WA–60	Crescent Bay.
Clallam	WA–61	Pysht River.
Clallam	WA–62	Clallam Bay.
Clallam	WA–63	Mouth Hoko River.
Grays Harbor	WA–69	Copalis River.
Grays Harbor	WA–70	Conner Creek.
Grays Harbor	WA–71	Ocean Shores.
Grays Harbor	WA–72	Ocean Shores South.
Grays Harbor	WA–73	Westport.
Grays Harbor	WA–74	Grayland North.
Pacific	WA–75	Grayland Beach.
Pacific	WA–75A	Grayland South.
Pacific	WA–76	Empire Spit.
Pacific	WA–77	North Beach Peninsula.
Pacific	WA–78	Jensen Point.
Pacific	WA–79	Long Beach/Seaview.
Pacific	WA–80	Cape Disappointment.

Appendix B—Proposed Oregon Coastal Barrier Resources System Units

County	Unit No.	Unit name
Clatsop	OR–01	Columbia R./Clatsop Spit.
Clatsop	OR–02	Necanicum River.

County	Unit No.	Unit name
Clatsop	OR–03	Chapman Beach/Ecola Creek.
Tillamook	OR–04	Nehalem Spit & Bay.
Tillamook	OR–05	Manhattan Beach.
Tillamook	OR–06	Bayocean Peninsula/ Tillamook Bay.
Tillamook	OR–07	Netarts Spit & Bay.
Tillamook	OR–08	Sand Lake Estuary.
Tillamook	OR–09	Nestucca Spit & Bay.
Tillamook	OR–10	Kiwanda Beach.
Tillamook/Lincoln	OR–11	Salmon River Estuary.
Lincoln	OR–12	Salishan Spit/ Siletz Bay.
Lincoln	OR–13	South Beach.
Lincoln	OR–14	Ona Beach/Beaver Creek.
Lane	OR–15	Baker Beach.
Lane	OR–16	Heceta Beach.
Lane/Douglas	OR–17	Oregon Dunes.
Douglas	OR–18	North Spit/Umpqua R.
Coos	OR–19	North Spit & Coos Bay/Oregon Dunes.
Coos	OR–20	Bullards Beach/ Coquille River.
Coos/Curry	OR–21	New River.
Curry	OR–22	Sixes River.
Curry	OR–23	Elk River.
Curry	OR–24	Garrison Lake.
Curry	OR–25	Euchre Creek.
Curry	OR–26	Greggs Creek.
Curry	OR–27	Hunter Creek.
Curry	OR–28	Pistol River.

Appendix C—Proposed California Coastal Barrier Resources System Units

County	Unit No.	Unit name
Del Norte	CA–01	Smith River/ Lake Earl.
Del Norte	CA–02	Whaler Island.
Del Norte	CA–03	Klamath River.
Humboldt	CA–04	Fern Canyon.
Humboldt	CA–05	Gold Bluffs.
Humboldt	CA–06	Redwood Creek.
Humboldt	CA–07	Freshwater Lagoon.
Humboldt	CA–08	Stone Lagoon.
Humboldt	CA–09	Dry Lagoon.
Humboldt	CA–10	Big Lagoon.
Humboldt	CA–11	Little River.
Humboldt	CA–12	Clam Beach/ Mad River.
Humboldt	CA–13A	North Spit.
Humboldt	CA–14	South Spit.
Humboldt	CA–15	Eel River.
Humboldt	CA–16	Mattole Beach.
Mendocino	CA–17	Usal Creek.
Mendocino	CA–18	Ten Mile River.
Mendocino	CA–18A	Inglenook.
Mendocino	CA–19	Navarro River.
Mendocino	CA–20	Alder Creek.
Mendocino	CA–21	Manchester Beach S.P. (north).
Mendocino	CA–22	Manchester Beach S.P. (center).
Mendocino	CA–23	Manchester Beach S.P. (south).
Mendocino/ Sonoma.	CA–24	Gualala River.
Sonoma	CA–25	Russian River.
Sonoma	CA–26	Salmon Crk Beach.
Marin	CA–27	Abbotts Lagoon.
Marin	CA–27A	Drakes Beach.
Marin	CA–28	Drakes Estero.
Marin	CA–29	Rodeo Cove.
San Mateo	CA–30	Laguna Salada.
San Mateo	CA–31	Elmar Beach.
San Mateo	CA–32	Pescadero Creek.
Santa Cruz	CA–33	Waddell Creek.
Santa Cruz	CA–34	Scott Creek.
Santa Cruz	CA–35	Sunset State Beach.
Santa Cruz/Monterey.	CA–36	Zmudowski Beach S.P.
Monterey	CA–37	Moss Landing.
Monterey	CA–38	Salinas River.
Monterey	CA–39	Little River.
Monterey	CA–40	La Cruz Rock.
San Luis Obispo	CA–41	Morro Bay S.P.
San Luis Obispo	CA–42	Pismo State Beach (north).
San Luis Obispo	CA–43	Pismo State Beach (south).
San Luis Obispo	CA–44	Oso Flaco Lake.
San Luis Obispo/ Santa Barbara.	CA–45	Santa Maria River.
Santa Barbara	CA–46	Santa Ynez River.
Santa Barbara	CA–47	Goleta Beach C.P.
Santa Barbara	CA–47A	Coal Oil Point.
Ventura	CA–48	Santa Clara River.
Ventura	CA–49	Mcgrath Lake.
Ventura	CA–50	Ormond Beach.
Ventura	CA–51	Mugu Lagoon.
Los Angeles	CA–52	Malibu Point.
San Diego	CA–53	San Mateo Point.
San Diego	CA–54	Las Flores Creek.
San Diego	CA–55	Santa Margarita River.
San Diego	CA–56	Agua Hedionda.
San Diego	CA–57	Batiquitos Lagoon.
San Diego	CA–59	Silver Strand.
San Diego	CA–60	Tijuana Slough.

Appendix D—Proposed Hawaii Coastal Barrier Resources System Units

County	Unit No.	Unit name
Hawaii	HI–01	Pololu Valley.
Hawaii	HI–02	Waimanu Bay.
Hawaii	HI–03	Waipio Bay.
Hawaii	HI–03A	Waiopae Ponds.
Hawaii	HI–04	Honokohau Bay.
Hawaii	HI–05	Kiholo Bay.
Hawaii	HI–06	Makalwa.
Maui	HI–07	Waihee.
Maui	HI–08	Paukukalo.
Maui	HI–09	Kanana Pond.
Maui	HI–10	Kealia Pond.
Molokai	HI–11	Piplo Fishpond.
Molokai	HI–12	Kaawanui Fishpond.
Molokai	HI–13	Palaloa Fishpond.
Molokai	HI–14	Lepelepe.
Molokai	HI–15	Pahoa.
Molokai	HI–16	Pelekunu Bay.
Molokai	HI–17	Alii Fishpond.
Molokai	HI–18	Kamiloloa.
Molokai	HI–19	Kaunakakai.
Molokai	HI–20	Kahanui.
Kauai	HI–21	Wainiha Bay.
Kauai	HI–22	Lumahai Beach.
Kauai	HI–23	Puu Poa Point Area.
Kauai	HI–24	Kilauea Bay.
Oahu	HI–25	Kii NWR.
Oahu	HI–26	Kahana Bay.
Oahu	HI–27	Molii Pond.
Oahu	HI–28	Waiahole Beach.
Oahu	HI–29	Heela.
Oahu	HI–30	Nuupia Pond.
Niihau	HI–31	Leahi Point.
Niihau	HI–32	Nonopapa.
Niihau	HI–33	Kiekie.
Niihau	HI–34	Kaununui.

Dated: July 10, 1993.

Richard M. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–30580 Filed 12–16–93; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–351]

Certain Removable Hard Disk Cartridges and Products Containing Same; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, John M. Whealan, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Jeffrey R. Whieldon, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: December 10, 1993.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 93-30769 Filed 12-16-93; 8:45 am]

BILLING CODE 7020-02-P

Investigation No. 337-TA-357

Cerain Sports Sandals and Components Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding administrative law judge in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Kinney Shoe Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on December 13, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205-1802.

By order of the Commission.

Issued: December 13, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-30770 Filed 12-16-93; 8:45 am]

BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Johnnie Davis, Interstate Commerce Commission, Section of Energy and Environment, Room 3219, Washington, DC 20423, (202) 927-6212 or (202) 927-6245.

Comments on the following assessment are due 15 days after the date of availability:

AB-167 (Sub-No. 1113X), Consolidated Rail Corporation—Abandonment Exemption—in Elizabeth, Union County, New Jersey. EA available 12/10/93.

AB-167 (Sub-No. 1131X), Consolidated Rail Corporation—Abandonment Exemption—in Mahoning County, Ohio. EA available 12/10/93.

AB-32 (Sub-No. 55X) & AB-355 (Sub-No. 7X), Boston & Maine Corporation and Springfield Terminal Railway Company—Abandonment and Discontinuance of Service—in Berkshire County, Massachusetts. EA available 12/10/93.

Comments on the following assessment are due 30 days after the date of availability:

AB-404 (Sub-No. 1X), Willamina & Grand Ronde Railroad Company—Abandonment Exemption—in Polk County, OR. EA available 12/10/93.

AB-403X, Willamette Valley Railroad Company—Abandonment Exemption—in Polk County, OR. EA available 12/10/93.

AB-39 (Sub-No. 17X), St. Louis Southwestern Railway Company—Abandonment Exemption—in Hunt and Colling Counties, Texas. EA available 12/10/93.

AB-402 (Sub-No. 1X), Fox Valley & Western Ltd.—Abandonment Exemption—in Fond Du Lac and Winnebago Counties, Wisconsin. EA available 12/10/93.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-30858 Filed 12-16-93; 8:45 am]

BILLING CODE 7035-01-P

[Ex Parte No. 290 (Sub No. 5) (94-1)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Interstate Commerce Commission.

ACTION: Approval of rail cost adjustment factor and decision.

SUMMARY: The Commission has approved a first quarter 1994 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter RCAF (Unadjusted) is 1.029. The first quarter RCAF (Adjusted) is 0.840, a decrease of 0.8 percent from the fourth quarter 1993 RCAF (Adjusted) of 0.847. Maximum first quarter 1994 RCAF rate levels may not exceed 99.2 percent of maximum fourth quarter 1993 RCAF rate levels.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: John C. Pertino (202) 927-6229 or Robert C. Hasek (202) 927-6239. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have an adverse economic impact on a substantial number of small entities. The economic impact on small entities is not likely to be significant within the meaning of the Regulatory Flexibility Act.

Decided: December 10, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, and Philbin.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-30854 Filed 12-16-93; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32414 (Sub No. 1)]

K. Earl Durden; Continuance in Control Exemption; Lakeside Transportation Co.

K. Earl Durden, a noncarrier individual, has filed a notice of exemption to continue in control of Lakeside Transportation Co. (LTC) upon LTC becoming a carrier.

LTC has concurrently filed a notice of exemption in Finance Docket No. 32414, *Lakeside Transportation Co.—Lease and Operation Exemption—Lines of Norfolk and Western Railway Company*, to lease and operate approximately 15.3 miles of rail line owned by the Norfolk and Western Railway Company, in the State of Missouri. LTC expects that transaction to be consummated on or after December 1, 1993.

Mr. Durden currently exercises control (directly or indirectly) over ten other nonconnecting class III rail carriers: (1) Wilmington Terminal Railroad, L.P.; (2) Galveston Railroad, L.P.; (3) Little Rock & Western Railroad, L.P.; (4) East Tennessee Railway, L.P.; (5) KWT Railway, L.P.; (6) Valdosta Railway, L.P.; (7) Tomahawk Railway, L.P.; (8) Georgia Central Railway, L.P.; (9) Copper Basin Railway, Inc.; and (10) ATW Railway, L.P. These nonconnecting affiliated rail carriers operate in the States of North Carolina, Georgia, Texas, Arizona, Tennessee, Arkansas, and Wisconsin. Mr. Durden indicates that: (1) the properties operated by the affiliated railroads will not connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Patricia E. Dietrich, 1224 Seventeenth Street, NW., Washington, DC 20036.

Decided: December 9, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-30855 Filed 12-16-93; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32414]

Lakeside Transportation Co.; Lease and Operation Exemption; Lines of Norfolk and Western Railway Co.

Lakeside Transportation Co. (LTC), a noncarrier, has filed a notice of exemption to lease and operate approximately 15.3 miles of rail line between milepost SD-150.6 near Moberly, MO, and milepost SD-165.9 near Excello, MO, owned by Norfolk and Western Railway Company.[1] The parties expected to consummate the transaction on or after December 1, 1993.

This transaction is related to a notice of exemption concurrently filed in Finance Docket No. 32414 (Sub-No. 1), *K. Earl Durden—Continuance in Control Exemption—Lakeside Transportation Co.*, in which K. Earl Durden[2] seeks to continue in control of LTC and 10 other class III railroads upon LTC becoming a class III rail carrier.[3]

Any comments must be filed with the Commission and served on: Patricia E. Dietrich, 1224 Seventeenth Street, NW, Washington, DC 20036.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: December 9, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-30856 Filed 12-16-93; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32413]

K.R. Nichols—Control Exemption—Dodge City Ford and Bucklin Railroad Co.

K.R. Nichols (Nichols) has filed a notice of exemption to acquire indirect control of the Dodge City Ford and Bucklin Railroad Company (DCF). Nichols controls the Jaxport Terminal Railway Company (JTR), a class III rail carrier. Nichols also owns 100% of the stock of Texas Transportation Consultants, Inc. (TTC), a noncarrier. TTC has recently agreed to purchase 66.7% of DCF's stock. The parties planned to consummate the transaction on or after December 1, 1993.

Nichols indicates that: (1) The lines operated by DCF will not connect with any other railroad, owned, either directly or indirectly by Nichols; (2) the involved transaction is not a part of a series of anticipated transactions that would connect the railroads with each other; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Frank J. Pergolizzi, Slover & Loftus, 1224 Seventeenth Street NW., Washington, DC 20036.

Decided: December 13, 1993.

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[1] The Moberly to Excello line, which is the subject of the lease, is part of a 121.8-mile rail line approved for abandonment in AB-290 (Sub-No 122X), *Norfolk and Western Railway Co.—Abandonment Exemption—in Randolph, Macon, Adair, and Schuyler Counties, MO, and Davis, Appanoose, and Monroe Counties, IA* (not printed), served February 24, 1993. By decision served April 27, 1993, the abandonment exemption was dismissed with respect to the 25.9-mile line segment between Moulton, and Albia, IA. Because of the interests expressed by numerous parties concerning the abandonment of rail service over the line, this notice of exemption will be served on the parties of record in the abandonment proceeding.

[2] Mr. Durden also controls (directly or indirectly) the following nonconnecting shortline rail carriers: Wilmington Terminal Railroad, L.P.; Galveston Railroad, L.P.; Little Rock & Western Railroad, L.P.; East Tennessee Railway, L.P.; KWT Railway, L.P.; Valdosta Railway, L.P.; Tomahawk Railway, L.P.; Georgia Central Railway, L.P.; Copper Basin Railway, Inc.; and ATW Railway, L.P.

[3] LTC was formed for the purpose of providing temporary coal deliveries, for Associated Electric Cooperative, Inc. to the Thomas Hill Generating Station, pending completion of construction by Burlington Northern Railroad Company of a new rail line capable of handling unit coal trains. LTC will also provide common carrier service to other shippers so long as a reasonable demand exists. Final approval of the construction and operation of the new line was issued by the Commission in Finance Docket No. 32229, *Burlington Nor. R. Co.,-Exempt.-Macon & Rand. Count., MO*, 9 I.C.C.2d 1161 (1993).

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-30857 Filed 12-16-93; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on August 31, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following parties have become members of CableLabs: Cable De Tula, S.A. de C.V., Juarez, Mexico; Crown Media, Inc., Dallas, TX; Fundy Cable Ltd./Ltee, Saint John, New Brunswick, Canada; Maclean Hunter Cable TV, Etobicoke, Ontario, Canada; and Western Coaxial Ltd., Hamilton, Ontario, Canada.

Consolidated Cable Properties, Inc. and Sonic Communications have withdrawn their memberships in CableLabs.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CableLabs intends to file additional written notification disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on April 23, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 1993 (58 FR 33951).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-30753 Filed 12-16-93; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Corporation for National Research Initiatives—Cross Industry Working Team Project

Notice is hereby given that, on September 28, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Corporation for National Research Initiatives ("CNRI") has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties who have executed agreements as primary members in the Cross Industry Working Team Project ("XIWT"), in addition to Corporation For National Research Initiatives, Reston, VA, are: AT&T Communications, Inc., Holmdel, NJ; Bell Communications Research, Inc., Livingston, NJ; Cable Television Laboratories, Inc., Boulder, CO; Citicorp, New York, NY; Digital Equipment Corporation, Littleton, MA; GTE Laboratories Incorporated, Waltham, MA: Hewlett-Packard Company, Palo Alto, CA; Intel Corporation, Santa Clara, CA; International Business Machines Corporation, Armonk, NY; MCI Telecommunications Corporation, Richardson, TX; McCaw Cellular Communications, Inc., Washington, DC; Motorola, Inc., Schaumburg, IL; Pacific Bell, San Ramon, CA; and Southwestern Bell Technology Resources, Inc., St. Louis, MO.

Associate Members are: Computer and Business Equipment Manufacturers Association, Washington, DC; Hughes Network Systems, Inc., Germantown, MD; Science Applications International Corporation, Vienna, VA; West Publishing Company, Eagan, MN; and Xerox Corporation, Palo Alto, CA. It is expected that additional organizations will execute agreements to participate in the Project, either as Primary Members or Associate Members.

The purposes of the XIWT are to assist in defining and resolving critical technological issues which must be confronted in the development of the National Information Infrastructure ("NII") which is widely considered as essential to provide U.S. leadership in the global marketplace. Since the NII will cross traditional industry boundaries, the participants in the XIWT are of the view that solving these problems will require the active collaboration of organizations and individuals from many different backgrounds and disciplines. The XIWT intends to provide such a framework in the form of a cooperative mechanism for cross-industry and cross-disciplinary collaboration in defining and solving the critical technological problems involved in creating a robust NII. The membership of XIWT is planned to include leading U.S. computer, communications, information delivery, research and design organizations, as well as other organizations with primary responsibility for NII support, articulation and implementation. In addition, XIWT plans to obtain the assistance of key researchers from the academic community, and representatives of information owners, primary end users, and the primary relevant industry and professional associations.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-30764 Filed 12-16-93; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on November 9, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences, Inc. ("NCMS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, NCMS has added Abrasive Technology, Inc., Westerville, OH; Aesop, Inc., Concord, NH; Brown and Sharpe Manufacturing Company, North Kingston, RI; Thriller, Inc., Dearborn, MI; Torrington, Inc., Torrington, CT as active members; and The Aerospace Corporation, Los Angeles, CA as an affiliate member. The following companies have been deleted from NCMS' active membership: Electro Scientific Industries, Inc.; MainStream Software Corporation; Manteq International, Inc.; and Salerno Manufacturing Systems, Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCMS intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, NCMS filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on August 12, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 23, 1993 (58 FR 49530).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-30754 Filed 12-16-93; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Spray Drift Task Force

Notice is hereby given that, on November 8, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Spray Drift Task Force has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership of the parties to the Spray Drift Task Force Joint Data Development Agreement. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Luxembourg Industries (PAMOL) Limited, Tel-Aviv, Israel, has become a member of the Spray Drift Task Force.

No other changes have been made in either the membership or planned activity of the group research project. Membership in the venture remains open, and the parties intend to file additional written notification disclosing all changes in membership.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 5, 1990 (55 FR 27701).

The last notification was filed with the Department on July 20, 1993. A notice was published in the **Federal Register** on August 16, 1993 (58 FR 43376).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-30752 Filed 12-16-93; 8:45 am]

BILLING CODE 4410-01-M

Office for Victims of Crime

Victims of Crime Act Victim Compensation Grant Program

AGENCY: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime.

ACTION: Notice of proposed program guidelines (revised) for the Victims of Crime Act, Crime Victim Compensation Grant Program.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), United States Department of Justice (DOJ), is publishing for a 45-day public comment period, Proposed Program Guidelines to implement the crime victim compensation grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, et seq. (hereafter referred to as VOCA).

DATES: Comments must be submitted on or before January 18, 1994.

ADDRESSES: State Compensation and Assistance Division, Office for Victims of Crime, 633 Indiana Avenue NW., Room 1386, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Hightower, Director, State Compensation and Assistance Division, at the above address; telephone number (202) 307-5947. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VOCA provides Federal financial assistance to States for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of Federal crimes.

These Proposed Program Guidelines provide information on the administration and implementation of the VOCA victim compensation grant program as authorized in Section 1403 of VOCA, Public Law 98-473, as amended, codified at 42 U.S.C. 10603, et seq., and contain information on the following: Background; Funding Allocation and Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding. These Program Guidelines are based on the experience gained during the first seven years of the grant program and are in accordance with VOCA, as amended. When approved in final form, these Guidelines will supersede any Guidelines previously issued by OVC.

These Program Guidelines do not constitute a "major" rule as defined by Executive Order 12291, because they do not result in: (a) An effect on the economy of $100 million or more; (b) a major increase in any costs or prices; or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

In addition, these Program Guidelines will not have significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, 5 U.S.C. 601, et. seq.

The collection of information described in the Program Requirements section has been approved by the Office of Management and Budget (OMB) as required under the Paperwork Reduction Act, 44 U.S.C. 3504(h). (OMB Approval Number 1121-0014.)

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits from fines and penalties levied on criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities mandated by VOCA.

OVC serves as the Federal focal point for all crime victim issues, to include ensuring that the criminal justice system addresses the legitimate rights and interests of crime victims. OVC's program activities are consistent with VOCA. These Program Guidelines address the specific program and financial requirements of the VOCA crime victim compensation grant program.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible States. The primary purpose of these grants is to supplement State efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with being a victim of a crime, and to encourage victim cooperation and participation in the criminal justice system. State crime victim compensation programs may use VOCA compensation grant funds to reimburse crime victims for eligible expenses provided by the State compensation statute except for property damage and losses. VOCA compensation grant funds cannot be used for audit costs, personnel costs,

and any other administrative expenditures.

States have the responsibility for establishing guidelines and procedures for applying for crime victim compensation benefits which meet the minimal statutory requirements outlined in VOCA and the requirements in these Program Guidelines.

Funding Allocation and Application Process

A. Distribution of Crime Victims Funds

OVC administers the deposits made into the Fund for activities, as specified in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund.

The Federal Courts Administration Act of 1992 removed the cap on the Fund, beginning with Federal Fiscal Year (FFY) 1993 deposits. Deposits made into the Fund during FFY 1993 will be used for grants in FFY 1994. This Act also eliminated the need for periodic reauthorization of VOCA and the Fund. Thus, under current legislation, the Fund will receive deposits indefinitely.

B. Availability of Funds

The Director of OVC will make an annual grant to eligible State crime victim compensation programs equal to 40 percent of the amounts awarded by the State program to victims of crime from State sources of revenue during the fiscal year preceding the year of deposits in the Fund (two years prior to the grant year). Note: Amounts paid to compensate victims for property damage or property loss, as well as amounts expended for program administration, must be excluded. If the amount in the Fund is insufficient to award each State 40 percent of its prior years compensation payout, Section 1403(a)(2) of VOCA [42 U.S.C.10602(a)(2)], provides that all States will be awarded the same reduced percentage of their prior year payout from the available funds.

Funds are available for expenditure during the FFY of award and in the next FFY. The FFY begins on October 1 and ends on September 30 of the following year. State crime victim compensation programs may pay compensation claims retroactively from October 1, even though the VOCA grant may not be awarded until later in the grant period. Funds that are not obligated by the end of the grant period must be returned to the General Fund of the U.S. Treasury. Therefore, States are encouraged to closely monitor the expenditure of VOCA funds prior to the end of the grant period.

C. Application Process

Each year, OVC issues to each eligible State a Program Instruction and Application Kit, which contains the necessary forms and detailed information required to make application for VOCA crime victim compensation grant funds. The amount for which each State may apply is included in the Application Kit. States shall use the Standard Form 424, Application for Federal Assistance, and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants must be submitted by the State agency designated by the Governor to administer the VOCA grant. Completed applications must be submitted on or before the stated deadline, as determined by OVC. If an eligible State fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute Federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program as provided by section 1404(a)(1) of VOCA (42 U.S.C. 10603(a)(1).

The following are attachments to the Application for Federal Assistance:

1. States shall specify their arrangements for complying with the provisions of Circular A–128 (Audits of State or Local Government.)

2. States shall submit Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements; Civil Rights Compliance, and any other certifications required by OJP and OVC. Additionally, States must complete a disclosure form specifying any lobbying activities that are conducted.

3. States shall submit a Crime Victim Compensation Eligible State Payments Certification Form which is furnished by OVC, with instructions. The amount certified on this Form is used by OVC to determine the annual Federal grant award to each eligible State. This form must be completed and signed by the authorized individual within the agency designated by the Governor to administer the VOCA crime victims compensation grant. This represents a change from previous OVC directives, in that, the Governor's designee may now serve as the certifying official for the purposes of submitting the certification of eligible State payments. For further information concerning the State certification, see the Program Requirements section.

4. States shall submit required Assurances and Information. To be eligible for funding under VOCA, a State crime victim compensation program must submit the following assurances and information:

a. An assurance that the program will comply with all applicable nondiscrimination requirements;

b. An assurance that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing, on the grounds of race, color, religion, national origin, sex, or disability against the program, the program will forward a copy of the finding to the Office of Justice Programs, Office for Civil Rights (OCR);

c. The name of the civil rights contact person who has lead responsibility in ensuring that all applicable civil rights requirements are met and who shall act as liaison in civil rights matters with OCR;

d. An assurance that programs will maintain information on victim services provided by race, national origin, sex, age, and handicap. Note: States are not required to submit this information as part of their program performance report.

Program Requirements

A. State Eligibility Criteria

The fundamental criterion of eligibility is an operational State-administered crime victim compensation program. Although an authorized program that has not actually paid out compensation benefits would be technically eligible under section 1403(b)(1) of VOCA [42 U.S.C.10602 (b)(1)], the program would not be entitled to any Federal funds because it had not awarded any benefits that the Federal government could match under section 1403(a)(1). Federal funds may not be used as "start-up" funds for a new State program.

Section 1403 of the Act [42 U.S.C.10602(b)(1)], prescribes the conditions and eligibility criteria related to crime victim compensation grants. In order for a State to meet or maintain eligibility for a crime victims compensation grant, it must satisfy the following eligibility requirements:

1. The program must be operated by a State and offer compensation to victims and survivors of victims of "compensable crimes," including drunk driving and domestic violence. The term "compensable crime" means a crime of violence, the victims of which are eligible for compensation under the eligible crime victim compensation program statute or rule.

Drunk Driving. States are required to offer crime victims compensation to victims and survivors of victims of vehicular crashes attributable to drunk or intoxicated driving. Consistent with the State's practice of awarding compensation to other victims of criminal violence, victims of drunk driving crashes should be considered for compensation on the same basis.

Domestic Violence. Denial of compensation to victims of domestic violence cannot be made solely on the basis of the type of crime, the category of benefits requested, the living arrangements of the victim and offender, or the fact that the victim and the perpetrator are related. Further discussion of compensation to domestic violence victims is found in item (7) below.

2. The State promotes victim cooperation with the reasonable requests of law enforcement authorities. States may impose such reasonable requirements as they see fit, but must, at a minimum, require a victim to report the crime to the appropriate law enforcement agency.

3. The State must certify that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation.

The nonsupplantation provision is intended to assure that States use VOCA funds to augment, not replace, otherwise available State funding for crime victim compensation. More specifically, the States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose.

4. The State, as to compensable crimes occurring within the State, must make compensation awards to victims who are non-residents of the State on the basis of the same criteria used to make awards to victims who are residents of such State.

This provision is intended to assure that non-residents of a State, who are victimized in a State that has an eligible compensation program, are provided the opportunity to apply for and receive the same compensation benefits that are available to residents of the State. The provision of reciprocal agreements with certain other States or foreign countries will not suffice to meet this criterion. Eligibility for VOCA funds requires the State program to extend its coverage to all non-residents victimized in the State. Note: For the purposes of this provision, the term "non-resident" must, at a minimum, include anyone who is a resident in one State but victimized in another. A State may, at its discretion, broaden its definition of non-resident to include anyone victimized in the State regardless of whether the victim is a United States citizen.

5. The State must provide compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes.

For example, a victim of a rape, occurring on a Federal installation or Indian reservation inside the State, must be afforded the same benefits that would be available to the victim if the rape were classified as a crime against the State. This provision is intended to cover those individuals victimized on military installations, national parks and highways, Native American reservations, and under other circumstances where Federal jurisdiction exists since there is no Federal compensation program which provides benefits to victims covered under Federal jurisdiction.

6. The State must provide compensation to residents of the State who are victims of crimes occurring outside the State, if the crimes would be compensable crimes had they occurred inside that State or the crimes occurred in States not having eligible crime victim compensation programs.

This provision is intended to cover those residents of a State who are victimized in a State which does not have a crime victim compensation program. While all States now have crime victim compensation programs, the State of Nevada has elected not to participate in the VOCA crime victim compensation grant program, and thus, does not award compensation benefits to non-residents of the State. Under this provision, State compensation programs are required to award benefits to its residents victimized in the State of Nevada if the crime would be compensable in the victim's State of residency.

This requirement protects residents of a State who are victims of criminal violence in another State which does not have an eligible crime victims program for which the victim qualifies. In such instances, the victim would be eligible for crime victim compensation from the State in which he or she resides. If a person from one State is victimized in another, which has an eligible compensation program, the State in which the crime was committed must offer compensation to the victim.

7. Except pursuant to rules issued by the compensation program to prevent unjust enrichment of the offender, the State does not deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender.

Unjust enrichment, as the basis for denying crime victims compensation, must be based upon written rules issued by the State crime victims compensation program. "Rules" mean either written policies or directives developed and distributed by State crime victim compensation programs or rules adopted by legislative or administrative bodies. Such rules cannot have the effect of denying compensation to most domestic violence victims. The rules relating to unjust enrichment should be applicable to all claims for compensation although it is recognized that domestic violence cases have the greatest potential for unjust enrichment.

In general, programs must balance the goals of making compensation benefits available to domestic violence victims and preventing unjust enrichment of offenders. State programs are strongly encouraged to work with domestic violence coalitions and representatives to this end. As new policies are developed, States are encouraged to make this information available to domestic violence victims through those individuals and organizations who come into contact with domestic violence victims, e.g., shelters, counseling programs, law enforcement authorities and medical personnel.

In developing rules, the States should consider the following:

a. Legal responsibilities of the offender to the victim under the laws of the State and collateral resources available to the victim from the offender. For example, legal responsibilities may include court-ordered restitution or requirements for spouse and/or family support under the domestic or marital property laws of the State. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. As with other crime, victims of domestic violence should not be penalized when collateral sources of payment are not viable, e.g., when the offender refuses to, or cannot, pay restitution or other civil judgments within a reasonable period of time or when the offender otherwise impedes direct or third party (i.e., insurance) reimbursements.

b. Payments to victims of domestic violence which benefit offenders in only a minimal or inconsequential manner would not be considered unjust enrichment. To deny payments, in some instances, could serve to further victimize the claimant.

c. Consultation with social services and other concerned governmental

entities, as well as with private organizations that support and advocate on behalf of domestic violence victims, is encouraged.

d. The special needs of child victims of criminal violence, especially when the perpetrator was the parent who may or may not have lived in the same residence.

8. The State must provide such other information and assurances as the Director of OVC may reasonably require.

B. State Certifications

Guidelines on amounts to be included as well as amounts to be excluded in a State's certification of payments of crime victims compensation from State funding sources are furnished below.

1. Program Revenue. States must report on the certification form all sources of State revenue available to the crime victims compensation program during the Federal Fiscal Year. In some instances, funds are made available to the crime victims compensation program from other departments or agencies, from supplemental appropriations, donations, or carried over from prior years appropriations. Only those State funds available during the Federal Fiscal Year should be reported. The amount of certified revenue, excluding VOCA funds, must meet or exceed the amount of certified payments to crime victims.

2. Amounts to be Included. The total amount to be certified, by the State program, must include only those amounts paid from State funding sources to crime victims during the Federal Fiscal Year (October 1 to September 30).

3. Compensable Expenses. The range of expenses for which States may award crime victims compensation varies nationwide, although all States must award compensation for the following: (a) Medical expenses, including mental health counseling and care; (b) loss of wages; and (c) funeral expenses. Note: The term "medical expenses" includes, to the extent provided under the State crime victim compensation program statute, expenses for eyeglasses and other corrective lenses; dental services and devices and prosthetic devices; and for services rendered in accordance with a method of healing recognized by the law of the State. "Mental health counseling and care" means the assessment, diagnosis, and treatment of an individual's mental and emotional functioning that is required to alleviate psychological trauma resulting from a compensable crime. Such intervention must be provided by a person who meets such standards as may be set by the State for victim mental health counseling and care.

Compensable expenses to be included in the certification must be authorized by State statute or rule, providing there is rule making authority in State law. Additional compensable expenses which a State may, at its discretion, pay include: pain and suffering; sexual assault examinations; relocation expenses for a victim whose health and safety is at risk from the perpetrator; crime scene clean up; expenses such as clothing and bedding taken as evidence; annuities for child victims for loss of support; medically necessary building modification; and medically necessary devices. States may include these compensable expenses, not identified in VOCA, in their annual certification of State payments.

Regarding the inclusion of compensation for attorney fees in the annual certification, States may include amounts awarded for attorney fees in their annual certification. However, States are encouraged to restrict their total amount reimbursed for attorney fees to not more than five percent of the total certified State payments.

4. Amounts to be excluded. States must exclude, in the certification, VOCA grant funds, and compensation for property losses or property damage, audit costs, personnel costs, and any other program administrative costs.

5. Applicable Credits. Any "applicable credits" must be deducted from the State certification. The term "applicable credits" refers to those receipts or reduction of expenditures, which operate to offset or reduce expense items that are allocable to a particular crime victim compensation claim. Typical examples of applicable credits in State crime victims compensation programs include funds received through subrogation, restitution, refunds, or other reimbursements. Refunds include amounts from overpayment, erroneous payments made to claimants, uncashed checks, etc. Additional guidance regarding applicable credits can be found in OMB Circular A–87, "Cost principles for State and Local Governments." (Copies are available from OVC upon request.)

Note: A State is not required to reduce its certified payment figure for a Federal Fiscal Year by the amount of reimbursements when such reimbursements were from payments to victims prior to receiving a VOCA award.

6. There is no financial requirement that State compensation programs identify the source of individual payments to crime victims as either Federal or State dollars. Consequently, when attempting to identify program receipts and reimbursements in connection with the State certification of payout, State compensation programs have generally encountered one of three situations:

a. Restitution and refunds returned to the State crime victim compensation program which can be identified with a claim paid from either Federal and/or State dollars;

b. Restitution and refunds returned to the State crime victim compensation program which cannot be identified as a claim paid from either Federal or State dollars; or

c. Restitution and refunds have been deposited into the State general fund and there is no clear determination whether they represent receipts on behalf of crime victims who have filed compensation claims.

Regardless of how State compensation programs identify the receipt of funds, the certified State payment amount must never include restitution, refunds, and amounts received by the State compensation program through subrogation or otherwise directly related to the payment of crime victim compensation benefits.

States must determine how to account for both the receipt and expenditure of restitution and refunds. States may take the total restitution and refunds received during a particular year and subtract 100 percent of the recoveries from the total amount (Federal and State dollars) paid out to crime victims during that year. Note: A State is not required to reduce its certified payment figure by the amount of restitution recoveries received by the State which are not directly related to the payment of crime victim compensation benefits.

7. Recovery Cost. Direct and specific efforts to recover restitution, refunds, and other reimbursements in effect reduce the amount recovered by the amount of the cost of the recovery effort. Expenses incurred by State compensation programs, which are directly attributable to the recovery of program funds, may be offset against the amount of income received from such reimbursements. Expenses directly attributable to recovery income shall be limited to the salary of an employee whose primary responsibility (not less than 75 percent of their time) is dedicated to recovering restitution and other reimbursements.

C. Incorrect Certifications

If it is determined that a State has made an incorrect certification of payments of crime victims compensation from State funding sources and a VOCA crime victim

compensation grant is awarded in error, one of the following two courses of action will be taken:

1. In the event that an over certification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds which were awarded in error.

2. If a State under-certifies amounts paid to crime victims, OVC will not supplement payments to the State in a subsequent year to correct the State's error.

D. Program Reporting Requirements

States receiving VOCA crime victims compensation grant funds are required to prepare an Annual Performance Report (provided by OVC.) The Report furnishes specific information about claims for compensation including types of crimes committed (including drunk driving and domestic violence), disposition of claims, and payments for compensable expenses. The Performance Report covers the Federal Fiscal Year ending September 30 and is due to OVC by December 30 of the same year. If a State fails to submit the Annual Performance Report, OVC may suspend or terminate funding to the State and/or take other appropriate action.

E. Additional Requirements

1. Civil Rights—Prohibition of Discrimination for Recipients of Federal Funds. No person in any State shall, on the grounds of race, color, religion, national origin, sex, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving Federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and Department of Justice Nondiscrimination Regulations, 28 CFR part 42, subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, title II of the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq., and Department of Justice regulations on disability discrimination, 28 CFR parts 35 and 39; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*

2. Confidentiality of Research Information. No recipients of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. See section 1407(d) of VOCA, codified at 42 U.S.C. 10603(d).

This provision is intended, among other things, to assure the confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a State's existing law governing the disclosure of information. For example, this provision would not act to override or repeal, in effect, a State's existing law pertaining to the mandatory reporting of a suspected child abuse. [See *Pennhurst State School and Hospital* v. *Halderman, et al.*, 451 U.S. 1 (1981)].

Financial Requirements

As a condition of receiving a grant, States agree to ensure adherence to the general and specific requirements as set forth in the "Financial and Administrative Guide for Grants," OJP M7100.1D (effective edition) and applicable Office of Management and Budget Circulars. This includes the maintenance of books and records in accordance with generally accepted government accounting principles. This section describes the payment of grant funds, termination of advanced funding; financial status reports, and audit requirements.

A. Audit Responsibilities for Grantees

Pursuant to OMB Circular A–128 (Audits of State or Local Governments), grantees that receive $100,000 or more in Federal financial assistance in any fiscal year must have a single audit for that year. State governments receiving at least $25,000, but less than $100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. State and local governments receiving less than $25,000 in any fiscal year are exempt from audit requirements.

B. Audit Costs

Although under OMB Circular A–128 audit costs are generally allowable charges under Federal grants, audit costs incurred at the grantee (State) level are determined to be an administrative expense and, therefore, cannot be paid with VOCA crime victim compensation grant funds. VOCA specifically provides that crime victim compensation grant funds may be used "only for awards of compensation." Therefore, administrative costs are not available for audit costs and must be borne by the grantee.

C. Financial Status Report for State Grantees

A Financial Status Reports (269A) are required from all State grantees. A Financial Status Report shall be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This Report is due even though no obligations or expenditures were incurred. Financial Status Reports shall be submitted to the Office of the Comptroller, by the State, within 45 days after the end of each subsequent calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31. A Final Financial Status Report is due 90 days after the end of the VOCA grant, no later than December 31.

D. Termination of Advance Funding

If the State grantee receiving cash advances by Letter of Credit or by direct Treasury check demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursement, OJP may terminate advance funding and require the State to finance its operations with its own working capital. Payments to the State will then be made by the direct Treasury check method, which reimburses the State for actual cash disbursements.

Monitoring

A. Office of the Comptroller

The Office of the Comptroller conducts periodic reviews of the financial policies and procedures and records of VOCA grantees. Therefore, upon request, States must give authorized representatives the right to access and examine all records, books, papers, case files, or documents related to the grant and all subawards.

B. Office for Victims of Crime

Beginning with the FFY 1991 grant period, OVC implemented an on-site monitoring plan in which each State grantee is visited a minimum of once

every three years. While on site, OVC personnel will review various documents and files such as (1) financial and program manuals and procedures governing the crime victim compensation grant program; (2) financial records, reports, and audit reports for the State grantee; (3) the State's compensation application, procedures, and guidelines for awarding compensation benefits; and (4) all other applicable State records and files.

Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a State has failed to comply substantially with VOCA, the M7100.1D (effective edition), the Final Program Guidelines, or any implementing regulation, OVC may suspend or terminate funding to the State and/or take other appropriate action. At such time, State grantees may request a hearing on the justification for the suspension and/or termination of VOCA funds.

Carolyn A. Hightower,

Interim Director, Office for Victims of Crime, Office of Justice Programs.

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DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I

North Carolina
- NC930035 (Dec. 17, 1993)
- NC930036 (Dec. 17, 1993)

Volume II

Missouri
- MO930035 (Dec. 17, 1993)
- MO930036 (Dec. 17, 1993)
- MO930037 (Dec. 17, 1993)
- MO930038 (Dec. 17, 1993)
- MO930039 (Dec. 17, 1993)
- MO930040 (Dec. 17, 1993)
- MO930041 (Dec. 17, 1993)

Texas
- TX930096 (Dec. 17, 1993)
- TX930097 (Dec. 17, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama
- AL930006 (Feb. 19, 1993)
- AL930018 (Feb. 19, 1993)

Kentucky
- KY930001 (Feb. 19, 1993)
- KY930002 (Feb. 19, 1993)
- KY930003 (Feb. 19, 1993)
- KY930004 (Feb. 19, 1993)
- KY930006 (Feb. 19, 1993)
- KY930007 (Feb. 19, 1993)
- KY930027 (Feb. 19, 1993)
- KY930028 (Feb. 19, 1993)
- KY930029 (Feb. 19, 1993)
- KY930035 (Feb. 19, 1993)

North Carolina
- NC930014 (Feb. 19, 1993)

New Jersey
- NJ930002 (Feb. 19, 1993)
- NJ930003 (Feb. 19, 1993)
- NJ930004 (Feb. 19, 1993)
- NJ930006 (Feb. 19, 1993)
- NJ930007 (Feb. 19, 1993)

New York
- NY930003 (Feb. 19, 1993)
- NY930005 (Feb. 19, 1993)
- NY930008 (Feb. 19, 1993)
- NY930013 (Feb. 19, 1993)

Pennsylvania
- PA930005 (Feb. 19, 1993)
- PA930006 (Feb. 19, 1993)
- PA930025 (Feb. 19, 1993)
- PA930026 (Feb. 19, 1993)
- PA930030 (Feb. 19, 1993)
- PA930031 (Feb. 19, 1993)

West Virginia

WV930002 (Feb. 19, 1993)
WV930003 (Feb. 19, 1993)

Volume II

Iowa
IA930006 (Feb. 19, 1993)
IA930025 (Jul. 23, 1993)
Minnesota
MN930003 (Feb. 19, 1993)
MN930005 (Feb. 19, 1993)
MN930007 (Feb. 19, 1993)
MN930008 (Feb. 19, 1993)
MN930012 (Feb. 19, 1993)
MN930015 (Feb. 19, 1993)
Nebraska
NE930001 (Feb. 19, 1993)
NE930003 (Feb. 19, 1993)
NE930009 (Feb. 19, 1993)
NE930010 (Feb. 19, 1993)
NE930011 (Feb. 19, 1993)
NE930051 (Jun. 11, 1993)
New Mexico
NM930001 (Feb. 19, 1993)
NM930005 (Oct. 17, 1993)
Oklahoma
OK930013 (Feb. 19, 1993)
OK930014 (Feb. 19, 1993)
Texas
TX930051 (Feb. 19, 1993)
TX930073 (Jun. 09, 1993)
TX930091 (Dec. 03, 1993)
TX930093 (Dec. 10, 1993)
Wisconsin
WI930011 (Feb. 19, 1993)
WI930016 (Feb. 19, 1993)
WI930031 (Dec. 03, 1993)
WI930033 (Dec. 03, 1993)

Volume III

Montana
MT930001 (Feb. 19, 1993)
MT930002 (Feb. 19, 1993)
MT930006 (Feb. 19, 1993)
MT930007 (Feb. 19, 1993)
MT930008 (Feb. 19, 1993)
Nevada
NV930001 (Feb. 19, 1993)
NV930002 (Feb. 19, 1993)
NV930005 (Mar. 26, 1993)
NV930007 (Feb. 19, 1993)
Oregon
OR930001 (Feb. 19, 1993)
OR930004 (Feb. 19, 1993)
Washington
WA930001 (Feb. 19, 1993)
WA930002 (Feb. 19, 1993)
WA930003 (Feb. 19, 1993)
WA930005 (Feb. 19, 1993)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 10th day of December, 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–30561 Filed 12–16–93; 8:45 am]

BILLING CODE 4510–27–M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on January 5–6, 1994 at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–3437A–D, Washington, DC. The meeting is open to the public and will begin at 9 a.m. on each day. At this meeting, the Advisory Committee will discuss the development of recommendations regarding priorities for OSHA's construction-related activities. The Advisory Committee will also receive work group reports.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs, at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chairman of the Advisory Committee. Individuals with disabilities who wish to attend the meeting should contact Tom Hall, at the address indicated below, if special accommodations are needed.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone 202–219–8615. An official record of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC this 7th day of December, 1993.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 93–30815 Filed 12–16–93; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

[Application No. D–9551, et al.]

Proposed Exemptions; Scios Nova Inc. 401(k) Plan, et al

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension

and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW, Washington, DC. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Scios Nova Inc., Scios Nova Inc. 401(k) Plan (the Plan) Located in Mountain View, CA

[Application No. D-9551]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale by the Plan of Group Annuity Contract, No. GA-10,021 (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) to Scios Nova Inc. (the Employer), a party in interest with respect to the Plan; provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan receives no less than the fair market value of the GAC at the time of the sale; (3) the Plan's trustee, acting as independent fiduciary for the Plan, has determined that the proposed sale price is not less than the current fair market value of the GAC; and (4) the Plan's trustee has determined that the proposed transaction is appropriate for and in the best interests of the Plan and its participants and beneficiaries.

Summary of Facts and Representations

1. The Employer is a biopharmaceutical company engaged in the discovery, development and commercialization of novel human therapeutics. It focuses its research and development efforts towards the treatment of acute illnesses, primarily in the areas of cardio-renal disease and inflammation. The Plan is a profit sharing plan with a salary reduction feature. There were 484 participants as of October 7, 1993. As of June 30, 1993, the Plan's total assets were $8,030,618. The terms of the Plan permit participants to direct the investment of their accounts under the Plan. The GAC issued by Mutual Benefit was one of the investment options offered to Plan participants in 1988 and 1989. Participants also had the option of investing in several different mutual funds. At the direction of Plan participants, some of the Plan's funds were invested in a Guaranteed Certificate Account established under the GAC. The terms of the Guaranteed Certificate Account provided for interest to be credited at the rate of 8.60% per annum until December 31, 1989, and thereafter at the rate of 8.10% per annum until the maturity date of December 31, 1991.

2. On July 16, 1991, Mutual Benefit was placed into rehabilitation proceedings by the New Jersey Commissioner of Insurance. As a result of these proceedings, all of the assets in the Guaranteed Certificate Account have been frozen. The Employer seeks an exemption to permit the cash sale by the Plan of the GAC to the Employer. The Employer represents that it wishes to enter into the proposed transaction in order to protect the accounts of Plan participants and beneficiaries from potential loss resulting from the reduced value of the GAC. The Employer further represents that the Plan needs to sell its interest in the GAC because Mutual Benefit is unable to make timely payments under the GAC and, therefore, participants are not able to exercise all of their rights under the Plan to request distributions, loans, withdrawals and investment transfers with respect to amounts currently invested in the GAC.[1] The applicant also represents that the Plan will not incur any expenses with respect to the sale of the GAC.

3. The Employer proposes to protect the interests of the affected participants by purchasing the GAC from the Plan at its face value,[2] adjusted as follows: (1) Interest is calculated at the guaranteed interest rate under the terms of the Guaranteed Certificate Account until December 31, 1991, the maturity date; and (2) interest is credited at a rate equal to 4% for periods in 1992 and at a rate equal to 3 ½% for periods thereafter until the purchase date. It is represented that the proposed rate of interest for periods after the maturity date are the rates that would apply to the GAC for those periods according to the proposed plan of rehabilitation set forth by the Superior Court of New Jersey. Any proceeds paid from the Guaranteed Certificate Account and received by the Plan on or before the purchase date will be subtracted from the purchase price.

The Employer represents that a request for a closing agreement has been filed with the Internal Revenue Service pursuant to Internal Revenue Procedure 92-16.[3] The Employer represents that it does not intend to claim a tax deduction under section 404 of the Code for any part of the purchase price to be paid to the Plan.

4. Bank of America, NT & SA, the Plan's trustee (the Trustee), acting as the Plan's independent fiduciary with respect to this transaction, has reviewed the proposed transaction on behalf of the Plan. The Trustee represents that it

[1] The Department notes that the decisions to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC issued by Mutual Benefit.

[2] The face value of the GAC is defined as the total amount paid to Mutual Benefit by the Plan for investment in the Guaranteed Certificate Account, Certificate No. 0002 established under the GAC.

[3] Internal Revenue Procedure 92-16 provides for a temporary closing agreement program to settle certain tax liabilities that arise out of transactions between an employer-sponsor and the trust of a qualified defined contribution plan.

has determined that the proposed purchase price for the GAC is at least equal to the fair market value of the GAC. In addition, the Trustee represents that it has determined that the proposed transaction is appropriate for the Plan and in the best interests of its participants and beneficiaries. Immediately prior to the actual sale of the GAC to the Employer, the Trustee will re-examine the appropriateness of the proposed transaction for the Plan.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The Plan will receive cash for the GAC in the amount of the face value of the Guaranteed Certificate Account plus accrued interest as of the date of the sale, which the Plan's independent fiduciary has determined to be not less than the fair market value of the GAC; (2) the transaction will enable the Plan and its participants and beneficiaries to avoid any risk associated with the continued holding of the GAC, and to exercise all of their rights under the Plan to request distributions, loans, withdrawals and investment transfers with respect to amounts currently invested in the GAC; (3) the Plan's Trustee, acting as the Plan's independent fiduciary, has determined that the sale at the proposed price is in the best interests of the participants and beneficiaries of the Plan; and (4) immediately prior to the sale, the Trustee will determine that the proposed transaction is appropriate for and in the best interests of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Kalon L. Kelley IRA and Karen R. Kelley IRA (the IRAs) Located in Santa Barbara, California

[Application Nos. D–9167 and D–9168]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of certain commercial real property (the Property) by the IRAs to Kalon L. Kelley and Karen R. Kelley (the Applicants), disqualified persons with respect to the IRAs, provided the sale price is not less than the greater of (a) the fair market value of the Property as of the proposed sale date, or (b) the IRAs' aggregate cost of acquiring and holding the Property.[4]

Summary of Facts and Representations

1. The IRAs are individual retirement accounts holding assets rolled over from other plans. Kalon L. Kelley is the only participant in the Kalon L. Kelley IRA, which had total assets of $470,496 as of June 30, 1992, and Karen R. Kelley is the only participant in the Karen R. Kelley IRA, which had total assets of $485,846 as of that date. The IRAs are administered by Santa Barbara Bank and Trust, as trustee, but the only persons with investment discretion for the IRAs are their respective participants, Kalon L. Kelley and Karen R. Kelley. Each IRA holds title to an undivided half interest in the Property, which comprises 53.14% of the Kalon L. Kelley IRA and 51.46% of the Karen R. Kelley IRA.

2. The Property is described by Benjamin F. Smith, MAI (the Appraiser) as a two-story office building, approximately 35 years old, in downtown Santa Barbara with parking on an adjoining parcel. It is located at 33–35 W. Micheltorena Street and 1436 Chapala Street, at the intersection of those streets, on a 3,732.5 square foot site with 74.65 feet of frontage on Micheltorena Street and 50 feet of frontage on Chapala Street. A smaller office building located at 1432 Chapala Street, next to the Property, is owned by another trust of which Karen and Kalon Kelley are the trustees. The Appraiser concludes that the market value of the Property as of June 24, 1992 was $500,000. According to the Appraiser, the fact that the smaller office building at 1432 Chapala Street is owned by an entity related to the Applicants does not have a significant effect on the value of the Property to the Applicants. The Appraiser is a partner in Hammock, Arnold, Smith & Co., real estate appraisers and consultants, and has been associated with that company since 1977. He is a member of the Appraisal Institute and certifies that his analyses, opinions and conclusions in this appraisal were developed in conformity with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation and in accordance with the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute. He also certifies that he has no personal interest or bias with respect to the parties involved with the Property.

3. The IRAs acquired the Property as a result of a foreclosure sale on May 28, 1992. Prior to the foreclosure sale, the Kalon L. Kelley IRA held a 45/250th interest in a second trust deed on the Property. (The second trust deed was made to secure an indebtedness evidenced by a single promissory note in the principal sum of $250,000. Five other individual lenders also held partial interests in this second trust deed.) A first trust deed in the amount of $200,000 is held by unrelated third parties. In August of 1991, a third trust deed on the Property securing the amount of $100,000, was issued equally to the IRAs as additional collateral for an unrelated trust deed, which was then in substantial default. As a result of delinquencies on the third trust deed, the IRAs' trustee exercised the power of sale and received a deed for the Property at foreclosure for a total consideration of $479,391, consisting of the following: $450,000 for the assumption of the first and second trust deeds; $7,883 for unpaid interest and late fees on the first trust deed; unpaid interest and late fees on the second trust deed in the amount of $18,136; $1,356 of foreclosure costs; and $2,016 of unpaid property taxes. There were no other bidders. After the foreclosure sale, the IRAs paid off the second trust deed, sharing all such expenses equally inasmuch as each IRA acquired a half interest in the Property.[5]

4. Although the IRAs now hold title to the Property, it is still subject to the first trust deed, securing the amount of $200,000. One of the holders of the first trust deed has advised the IRAs' trustee that the note secured by the first trust deed is now overdue. The IRAs do not have sufficient liquid assets to pay off that note. However, the Applicants would be able to pay off that note using other (non-IRA) assets if the proposed exemption is granted. The Applicants characterize the Property as a management intensive operating asset requiring substantial time and expense for the IRAs' trustee to administer and unreasonable and substantial administrative expense for the IRAs. In this regard, the Summary of Account

[4] Pursuant to 29 CFR 2510.3–2(d), the IRAs are not subject to Title I of the Act. However, the IRAs are subject to Title II of the Act, pursuant to section 4975 of the Code.

[5] The Department notes that, in proposing this exemption for the sale of the Property, it is expressing no opinion concerning whether any of the transactions preceding the acquisition of the Property violated the provisions of any other law. In particular, we are not ruling on the interpretation or application of section 408 of the Internal Revenue Code (the Code) to those transactions. In this regard, we note that the Internal Revenue Service has sole jurisdiction over section 408 of the Code. As such, the Department expresses no opinion with regard to those issues.

Activity for each IRA for the period June 1 to June 30, 1992, shows administration expenses of over $134,000 for each of the IRAs. The Property has continued to be rented to three tenants, who occupy all the useable space. The Property has yielded a net operating loss through July 31, 1992 of $2,463, and the IRAs have incurred capital expenditures of approximately $506 to reconstruct a trash shed on the Property. Thus, the IRAs' adjusted basis in the Property equalled $482,360 as of July 31, 1992 ($479,391 acquisition cost + $506 capital expenditures + $2,463 net operating loss). The IRAs' trustee has advised the Applicants that it is imprudent to have so much of the IRAs' assets invested in the Property, which carries an offsetting liability (the first trust deed, requiring servicing) and which is expensive and labor intensive. The Applicants assert that it was never intended that the IRAs would hold and manage or operate a commercial building.

5. For these reasons, the Applicants wish to purchase the Property from the IRAs by jointly assuming the $200,000 obligation secured by the first trust deed and by paying $150,000 cash to each IRA, for a total consideration of $500,000, the appraised value of the Property. The IRAs will not pay any commissions in connection with the proposed sale. The Applicants represent that there have been two rather casual discussions regarding possible sale of the Property: (a) An investment firm contacted the Applicants after the foreclosure sale and expressed an interest in purchasing the Property, but after pro-forma details were submitted they declined to make an offer; (b) one of the tenants in the Property expressed a possible interest in purchasing the Property but has declined invitations to meet and discuss that possibility. The Applicants state that in neither of these cases was any purchase price mentioned and that, in their view, the conversations were only casually explorative. The Applicants represent that the absence of other attempts to sell the Property reflects the fact that there is little or no market for commercial property in the locality of the Property. The Applicants represent further that the proposed sales price of the Property will be the greater of its fair market value as of the date of the proposed sale or the Property's adjusted basis as of said date.

6. In summary, the Applicants represent that the proposed transaction satisfies the exemption criteria set forth in section 4975(c)(2) of the Code because: (a) The sale will be a one-time transaction for cash; (b) the proposed sales price of the Property will be the greater of its fair market value as of the date of the proposed sale or the Property's adjusted basis as of said date; (c) the IRAs will not pay any commissions in connection with the proposed sale; and (d) the proposed transaction will permit the IRAs to replace with cash a nonliquid, management intensive operating asset requiring substantial time and expense for the IRAs' trustee to administer.

Notice to Interested Persons

As the Applicants are the only participants in the IRAs, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan, of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Local No. 60 Health and Welfare Fund (the Plan) Located in Leominster, Massachusetts

[Application No. L–9526]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to the cash sale of a parcel of real property (the Property) by the Plan to the New England Joint Board of the Retail, Wholesale and Department Store Union, AFL–CIO (the Joint Board), for the greater of (1) $170,000 in cash or (2) the fair market value of the Property as of the date of the sale, provided the following conditions are satisfied: (a) the purchase price is not less than the fair market value of the Property on the date of the sale; and (b) the fair market value of the Property is determined by a qualified, independent appraiser as of the date of the sale.

Summary of Facts and Representations

1. In 1962, Local No. 60 of the Retail, Wholesale and Department Store Union, AFL–CIO (Local No. 60) and the Foster Grant Corporation (FG), pursuant to their collective bargaining agreement, established the Plan to provide health and welfare benefits to Union employees of FG. Local No. 60 is a local affiliate of the Joint Board, which is the regional organization for all locals of the Retail, Wholesale and Department Store Union in the six New England states. Union trustees of the Plan also serve as officers or staff members of the Joint Board.

2. The Plan has been terminated because FG is bankrupt and has, effectively, gone out of business and ceased to exist. There has not been a collective bargaining agreement between FG and Local No. 60 since August 13, 1991, when FG consummated the sale of its Technical Products Division. On August 9, 1991, the Plan's trustees unanimously voted to terminate the Plan and distribute the Plan's assets to its beneficiaries upon FG's sale of its Technical Products Division, which would terminate the collective bargaining agreement.

3. The Plan's trustees are now attempting to effectuate the Plan's termination and to distribute its assets to its approximately 850 beneficiaries. Part of the action required to accomplish these objectives is the sale of the Property, which consists of a building located at 149 Mechanic Street in Leominster, Massachusetts. The Plan acquired the Property on May 15, 1967 from J. Henry and Corinne A. Goguen, unrelated third parties, for $40,000.

4. The trustees have attempted to sell the Property to third parties by listing it with an independent real estate broker. Mr. Thomas Morin of Century 21 Realty in Lunenburg, Massachusetts, represents that the Property was listed with his agency in June, 1991, at $299,000, and there were no interested buyers. On September 18, 1991, the price was reduced to $280,000, but still there have been no interested buyers.

5. On April 28, 1992, the Property was appraised by Mr. Lawrence W. Marshall (Mr. Marshall) of Northern Financial Services, Inc., an independent real estate appraiser in Leominster, Massachusetts, as having a fair market value of $212,000. Mr. Marshall noted that there had been no sale activity at the prices at which the Property had been listed with the real estate broker (see rep. 4, above) because the asking price had been above the market value range. The Plan's trustees requested an exemption to permit the sale of the Property to the Joint Board at its appraised fair market value in order to terminate the Plan and distribute its assets to its participants.

6. On July 12, 1993, the Department granted Prohibited Transaction Exemption 93–42 (PTE 93–42; 58 FR 37511) to permit the Plan to sell the

Property to the Joint Board.[6] The conditions of PTE 93–42 required that the sales price be the greater of $212,000 or the current fair market value of the Property as determined by a qualified independent appraiser as of the date of the sale.

7. The applicant represents that, pursuant to the conditions of PTE 93–42, the Plan's trustees re-engaged Mr. Marshall to update his appraisal of the Property as of the date of the intended sale. Mr. Marshall determined that, as of August 26, 1993, the fair market value of the Property had fallen approximately 17–22% over the prior 16 months and now would be appraised as being between $165,000 and $170,000.

8. The applicant represents that the Joint Board's agreement to purchase the Property from the Plan for $212,000 was specifically and explicitly conditioned upon the Joint Board being able to obtain a loan for 90% of the purchase price from its parent, International Union, the Retail, Wholesale and Department Store Union, AFL–CIO (the International). This condition was expressly stated to the Plan on several occasions. It is only with a loan from the International that the Joint Board can afford to purchase the Property (at any price). Once Mr. Marshall issued his August 26, 1993 appraisal of the Property, the International withdrew its offer to loan the Joint Board 90% of the $212,000 price. The International told the Joint Board that it would only extend a loan for 90% of the new fair market value as determined by Mr. Marshall.

9. When it became apparent to the parties that Mr. Marshall's updated appraisal revised the estimated fair market value of the Property to a figure between $165,000 and $175,000, the parties entered into significant negotiations relative to adjusting the purchase price. The Joint Board agreed to purchase the Property from the Plan for the sum of $170,000, subject to receiving: (a) A new prohibited transaction exemption from the Department; and (b) financing from the International as described in rep. 8, above. The Joint Board is prepared to enter into a binding agreement to purchase the property for $170,000. The Joint Board has obtained a binding commitment from the International to loan 90% of the proposed purchase price, or $153,000, to the Joint Board, provided that the deal is consummated by March 1, 1994.

[6] For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 93–42, refer to the notice of proposed exemption published on April 9, 1993 at 58 FR 18423.

10. In summary, the applicant represents that the proposed transaction meets the criteria of section 408(a) of the Act because: (a) The sale is a one-time transaction for cash; (b) the purchase price for the Property will be not less than the fair market value of the Property; (c) the fair market value of the Property will be determined by a qualified, independent appraiser; and (d) the Plan's trustees believe that it is in the best interests of the Plan and its participants and beneficiaries to sell the Property as expeditiously as possible at its current fair market value and distribute the Plan's assets (now all liquidated except for the Property) to the eligible participants.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Frederick J. Grant, M.D., A.P.C., Profit Sharing Plan (the Plan), Located in San Luis Obispo, California

[Application No. D–9093]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of an interest in certain improved real property (the Property) from the individually directed account in the Plan of Frederick J. Grant, M.D. (Grant), a party in interest with respect to the Plan, to Grant, provided that the following conditions are met:

1. The terms of the sale are at least as favorable as those the Plan could obtain in an arm's-length transaction with an unrelated party;

2. The sale will involve only Grant's individual account in the Plan;

3. The fair market value of the Property (and as a result the Plan's equity in the Property) will be established by an independent real estate appraiser;

4. The Plan will receive no less than the greater of its share of the fair market value of the Property (minus the pro rata portion of the encumbrance) or the total amount the Plan has expended in relation to the Property as of the date of sale; and

5. The Plan will receive all cash in regard to the transaction.

Summary of Facts and Representations

1. Frederick J. Grant, M.D., A.P.C. (the Employer) is a professional medical corporation. Grant is the sole shareholder as well as an officer and director of the Employer. Grant is also a participant in the Plan and a fiduciary of the Plan. The Plan is a profit sharing plan which permits its participants to direct the investments of their individual accounts. The Plan had 10 participants and total assets of $894,658 as of December 31, 1991. On that date, the assets in Grant's individual account totaled approximately $710,000.

2. The Plan became a general partner in May 1988 in Hesperia Main Street Investments (the Partnership), a California general partnership which was formed to acquire, hold and lease the Property. The Property was and remains the Partnership's principal asset. According to the applicant, the Plan became a general partner in order to have the right and power to participate in the management and control of the Partnership's business. The Plan paid $188,306 for its interest in the Partnership which was acquired from unrelated third parties. The Property consists of a multiphase public storage facility located in San Bernardino County, California. The Plan purchased another four percent interest in July 1989 for $7,793 and now owns a 50 percent capital and profits interest in the Partnership.

The applicant represents that the Plan acquired its interest in the Partnership on behalf of Grant's individual account and that no other Plan participant is affected by that investment. The purpose of the Plan's initial investment in the Partnership was to obtain an expected high total return from a combination of current income and capital appreciation. The other partners in the Partnership are unrelated to Grant and the Employer. The Property is leased to parties unrelated to Grant and the Employer. Neither Grant nor the Employer uses any part of the Property. In May 1992 the Plan made an additional capital contribution to the Partnership in the amount of $215,000. As a result, the Plan has paid a total of $411,000 for its interest in the Partnership.[7]

[7] The Department expresses no opinion as to whether plan fiduciaries violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act in investing in the Partnership. Section 404(a)(1) of the Act requires, among other things, that a plan fiduciary must act prudently and solely in the interest of the participants and beneficiaries of the plan.

The Plan obtained an appraisal on the Property from H.I. Motley (Motley), a real estate appraiser located in Newport Beach, California. The applicant represents that Motley is independent of Grant and the Employer. Motley estimated that the fair market value of the Property was $2,300,000 as of March 4, 1992. The Property is subject to a deed of trust in favor of Eldorado Bank (the Bank) of San Bernardino in the principal sum of $1,547,504 (as of September 15, 1992). As a result, the fair market value of the Plan's one-half interest in the Property (less the pro rata share of the encumbrance) was approximately $376,000 as of September 15, 1992. The applicant represents that the Bank is not related to Grant or the Employer.

4. The Plan now requests an exemption to permit the Plan to sell its interest in the Property to Grant. Grant will pay the greater of (1) the original purchase price paid by the Plan for the Partnership interest, plus additional contributions or expenses relating to the holding of the interest, or (2) the fair market value of the Plan's one-half interest in the Property (less the pro rata share of the encumbrance) as of the date of sale in accordance with an updated independent appraisal. The sale will be a one-time transaction for cash, and the Plan will pay no commissions or other expenses in regard to the sale.[8]

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The Plan will receive the greater of its equity in the Property, as established by an independent appraisal, or the total cost to the Plan of acquiring and holding its interest in the Property as of the date of sale; (2) the sale will be a one-time transaction for cash and the Plan will pay no commissions or other expenses in regard to the transaction; (3) the sale will affect only the individual account of Grant in the Plan; and (4) the transaction will increase the diversification of the assets of Grant's individual account.

Tax Consequences of Transaction

The Department of the Treasury has determined that, if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under the applicable provisions of the Code, including sections 401(a)(4), 404, and 415.

NOTICE TO INTERESTED PERSONS: Because Grant is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Ashley Construction, Inc. Retirement Plan (the Plan) Located in Hidden Hills, California

[Application No. D–9464]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed loan (the Loan) by the Plan of an amount that will not exceed $350,000 to Ashley Construction, Inc. (the Employer), a party in interest with respect to the Plan; and (2) the proposed personal guarantee of the Employer's obligations under the Loan by Michael F. Ashley (Mr. Ashley), a party in interest with respect to the Plan.

This proposed exemption is conditioned upon the following requirements: (a) The terms of the Loan are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (b) the Loan will not exceed twenty-five percent of the assets of the Plan at any time during the duration of the Loan; (c) the Loan is secured by a first deed of trust on certain real property (the Property), which has been appraised by a qualified, independent appraiser to ensure that the fair market value of the Property is at least 150 percent of the amount of the Loan; (d) the Employer's obligations under the Loan are personally guaranteed by Mr. Ashley; (e) the fair market value of the Property remains at least equal to 150 percent of the outstanding balance of the Loan throughout the duration of the Loan; (f) an independent, qualified fiduciary determines on behalf of the Plan that the Loan is in the best interests of the Plan and protective of the Plan's participants and beneficiaries; and (g) the independent, qualified fiduciary monitors compliance with the terms and conditions of the exemption and the Loan throughout the duration of the transaction, taking any action necessary to safeguard the Plan's interest, including foreclosure on the Property in the event of default.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan sponsored by the Employer. The Employer, established in 1973, is a California corporation licensed by the state as a general building contractor. As of March 31, 1993, the Plan had total assets of $1,419,524 and nine participants. The trustee is Mr. Ashley, who has sole investment discretion with regard to the Plan's assets.

2. The Employer has requested an administrative exemption from the Department to permit the Loan by the Plan of an amount that will not exceed $350,000 to the Employer under the terms and conditions described herein.

The Loan will be in a principal amount not to exceed $350,000. The applicant states that at no time will the amount of the Loan represent more than twenty-five percent of the Plan's total assets. The Loan will be secured by a first deed of trust on the Property, which consists of a vacant, unimproved single-family lot located at 25090 Jim Bridger Road, legally referenced as Lot 16, Tract 44546, City of Hidden Hills, Los Angeles County, California. The deed of trust will be duly recorded to reflect the Plan's security interest in the Property. In addition, the Employer will insure the Property against casualty loss and designate the Plan as the loss payee of such insurance. The Loan will also be guaranteed as to interest and principal by Mr. Ashley. The applicant has provided financial statements which indicate that Mr. Ashley's net worth was $7,386,509 as of March 31, 1993.

3. The Loan will have a ten year term and will be evidenced by a promissory note (the Note). The Note will require the Employer to make quarterly payments of principal and interest which will be fully amortized over the ten-year term. The interest rate on the Loan will be the greater of either: (a)

[8] The applicant represents that the amount by which the cash paid to the Plan exceeds the Plan's half of the fair market value of the Property (less the pro rata share of the encumbrance), if treated as an employer contribution to the Plan, when added to the balance of the annual additions to the Plan, will not exceed the limitation prescribed by section 415 of the Code.

The prime commercial lending rate charged by City National Bank (City National) of Woodland Hills, California, an unrelated entity, plus one and one-half percentage points per annum; or (b) seven and one-half percent per annum. The interest rate will be adjusted annually by the Plan's independent fiduciary in accordance with the prime rate offered by City National. However, in no event will the adjusted rate for the Loan be less than seven and one-half percent per annum. Under the terms of the Note, the Employer will be liable for all costs of collection, including attorneys' fees in the event of default on the Loan. The Plan will not be required to pay any commissions, fees, or other expenses in connection with the Loan. City National has indicated it would charge the Employer interest equal to its prime lending rate plus one-half of a percentage point per annum for an unsecured loan in the amount of $500,000. In addition, City National states that it would charge the Employer an up-front loan fee of $2500 or one half of a percentage point, making the overall interest rate the prime lending rate plus one percentage point for such a loan.[9]

4. The Property was appraised by Eve D. Williams, MAI (Ms. Williams), a qualified, independent appraiser in Woodland Hills, California, as having a fair market value of $600,000 as of June 23, 1993. Ms. Williams utilized the market approach of valuation by using recent sales from comparable properties in the Hidden Hills area.

5. Kevin W. Mahan (Mr. Mahan) will serve as the independent, qualified fiduciary for the Plan with respect to the Loan. Mr. Mahan represents that he has sixteen years experience as a pension administrator and is a member of the Joint Board for the Enrollment of Actuaries and the American Society of Pension Actuaries. Mr. Mahan represents that he is unrelated to and independent of the Employer and its affiliates, including Mr. Ashley. Mr. Mahan states that he understands and acknowledges his duties, responsibilities, and liabilities in acting as a fiduciary with respect to the Plan, based upon consultation with counsel experienced with the fiduciary responsibility provisions of the Act.

Mr. Mahan has reviewed the terms of the Loan and all of the documents and relevant information in connection with the Loan, including the Appraisal. Mr. Mahan states that the terms of the Loan compare favorably with the terms of similar transactions between unrelated parties and would be a better than arm's-length transaction as evidenced by the terms offered by City National for an unsecured loan (see Item #4 above). Mr. Mahan believes that the Loan is in the best interests of the Plan because it offers a guaranteed minimum rate of return of seven and one-half percent per annum on an adequately secured investment whereas alternative investments with comparable security offer only a three to six percent rate of return. In addition, Mr. Mahan adds that the Loan will be secured by a first deed of trust on the Property which has been valued in excess of 150 percent of the Loan amount. Mr. Mahan acknowledges his responsibility to annually review the Loan and adjust the interest rate based upon the prime rate charged by City National.

Mr. Mahan has reviewed the current investment portfolio of the Plan and considered the diversification of the Plan's assets as well as the liquidity needs of the Plan. Based on this analysis, Mr. Mahan believes that the proposed transaction would be in the best interests of the Plan and its participants and beneficiaries as an investment for the Plan's portfolio. Mr. Mahan states that the Loan would be an appropriate and desirable investment for the Plan, based on the Loan's rate of return, the collateral securing the Loan, the character and diversification of the Plan's other assets, and the projected liquidity needs of the Plan.

Mr. Mahan has reviewed the financial condition of the Employer in order to establish its ability to repay the Loan. In this regard, Mr. Mahan states that he has examined the most recent financial statements and its twenty-year credit history. Mr. Mahan concludes that the Employer is credit-worthy and, based upon the Employer's thirteen month projection of its cash flow, is financially capable of making the quarterly Loan payments of $12,516 without such payments having an adverse impact on its cash. Mr. Mahan notes that the Employer's real estate assets are in excess of $24 million and can easily be liquidated into cash. Mr. Mahan has also analyzed the financial statements for Mr. Ashley and believes that his net worth would be more than sufficient to personally guarantee the Employer's obligations under the Loan.

Mr. Mahan represents that he will monitor the Loan throughout its entire duration and will take any appropriate action necessary to protect the interests of the Plan and its participants and beneficiaries, including a foreclosure on the Property in the event of default. Mr. Mahan will monitor the condition and adequacy of the Property as collateral for the Loan to ensure that the Loan remains secured by collateral worth at least 150 percent of the Loan at all times.

Mr. Mahan will monitor the Plan's assets to ensure that the amount of the Loan will at all times remain less than twenty-five percent of the Plan's total assets. Mr. Mahan will require the Employer to provide additional payments on the Loan to the Plan, if necessary, to reduce the principal amount of the Loan to maintain an appropriate ratio between the outstanding principal balance of the Loan and the Plan's total assets. Mr. Mahan has acknowledged his responsibility to monitor compliance of all parties with the terms and conditions of the proposed exemption, including the twenty-five percent limitation. Mr. Mahan understands that the effectiveness of this exemption, if granted, will be dependent on such compliance.

6. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The terms of the Loan will be at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (b) the Loan will not exceed twenty-five percent of the assets of the Plan; (c) the Loan will be secured by a first deed of trust on the Property, which will be appraised by a qualified, independent appraiser to ensure that the fair market value of the Property is at least 150 percent of the amount of the Loan; (d) the Employer's obligations under the Loan will be personally guaranteed by the Trustee; (e) throughout the duration of the Loan, the fair market value of the collateral will remain at least equal to 150 percent of the outstanding balance of the Loan; and (f) Mr. Mahan, as the Plan's independent, qualified fiduciary, will determine on behalf of the Plan that the Loan is in the best interests of the Plan and protective of the Plan's participants and beneficiaries; and (g) Mr. Mahan will monitor compliance with the terms and conditions of the exemption and the Loan throughout the duration of the transaction, taking any action necessary to safeguard the Plan's interest, including foreclosure on the Property in the event of default.

Tax Consequences of Transaction

The Department of the Treasury has determined if a transaction between a qualified employee benefit plan and its

[9] Under the terms of the Loan, the Employer will be paying an amount in excess of the interest rate charged by City National. The Employer specifically represents that in the event such excess is treated as a contribution by the Employer to the Plan, it will not cause the Plan to exceed the limitations of section 415 of the Code.

sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under the applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Randall W. Smith, M.D., A.P.C., Defined Benefit Pension Plan (the Plan) Located in San Diego, California

[Application No. D–9547]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) of certain real property (the Property) by the Plan to Randall W. Smith, M.D. and Florence E. Smith (the Smiths), husband and wife, disqualified persons with respect to the Plan; provided that the consideration paid for the Property is no less than the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with two participants, the Smiths, who are also co-fiduciaries of the Plan. As of December 30, 1992, the Plan had assets totalling $893,479, of which the Property constituted approximately 32 percent of the total Plan assets.

The sponsoring employer (the Employer) of the Plan is a California professional corporation, which is engaged in the practice of neurosurgery and microsurgery in San Diego, California. Dr. Smith is an employee, sole director, and 100 percent shareholder of the Employer. Dr. Smith is also a farmer.[10]

2. The Property was acquired by the Plan on November 4, 1983, from an unrelated person and consists of 30.23 acres located on Cloverdale Road in the San Pasqual Valley, San Diego County, California. It is divided into 3 parcels with approximately 9 acres in income-producing Haas avocado groves, 15 acres in raw land being held for appreciation and potential residential subdivision, and 6 acres in raw land suitable for cultivation of avocado groves. The Smiths have leased the 6 acre parcel of the Property from the Plan pursuant to obtaining, from the Department of Labor during 1984, a grant of an individual exemption from the prohibited transaction provisions of the Code. (See, PTE 84–138, 49 FR 37188, September 21, 1984.) Also, the Smiths own and developed approximately 20 acres of mature avocado groves that are adjacent to the Property.

The Property has been appraised, as of July 10, 1993, by an independent, licensed appraiser, Frank W. Keichline, Certificate #AR006774, Keichline & Associates, Fullbrook, California. Mr. Keichline determined that the Property had a fair market value of $287,250. He also determined that the Property's marketability was negatively impacted by the present slow market and severe erosion of property values experienced in Southern California over the past three years. Mr. Keichline also stated that the present low interest rates have failed to boost market activity in the area of the Property and that the area's typical land sales are still financed by the owner-seller.

3. The applicants propose that the Plan sell the Property to the Smiths for the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale. The applicants represent that the proposed Sale is in the interest of the Plan because economic conditions in California, and in particular in San Diego County, have been and are currently causing property values to decline, as well as, causing a decline in the development of residential and commercial properties. Furthermore, San Diego County continues to experience severe drought conditions causing the cost of water to be prohibitively expensive for the farming of avocado groves.

The applicants represent that during 1992 the Property had an income of $7,334 from the sales of avocados and rental payments; however, the Property incurred expenses of $20,388 during the same period.[11] Furthermore, the applicants represent that not only was the Plan subject to the general risks inherent in farming; but that avocado farming is subject to greater risks and wider variations of income because of the unstable demand for avocados and the inclement weather conditions and costly water supplies in the area where the Property is located.

The applicants contend that the proposed Sale will enable the Plan to invest its funds from the Sale in income-producing investments which are more stable with less risks to Plan participants. The Plan will receive cash and will not incur any expenses from the proposed transaction.

4. In summary, the applicants represent that the proposed transaction will satisfy the statutory criteria for an exemption under section 4975(c)(2) of the Code because (a) the proposed Sale will be a one-time transaction for cash; (b) the Plan will receive not less than the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser; (c) the Plan will not pay any real estate commissions nor any other fees or expenses in connection with the proposed Sale; and (d) the Smiths, who are the only participants in the Plan, desire that the transaction be consummated.

NOTICE TO INTERESTED PERSONS: Since the Smiths are the only participants affected by the proposed transaction, there is no need to distribute notice to interested persons. Comments and requests for a hearing must be received by the Department within 30 days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404

[10] Since Dr. Smith is the sole shareholder of the Employer, and the only participants in the Plan are the Smiths, there is no jurisdiction under Title I of the Act, pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[11] The applicants represent that no expenses were incurred by the Plan from leasing the 6 acre parcel to the Smiths since 1984, because of the "triple net" features contained in the lease. In addition, the independent fiduciary representing the Plan under the lease states that he has monitored the lease since 1984 and has discovered no defaults under the lease and has determined the rents to have been the fair market rental value.

of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 14th day of December, 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 93-30881 Filed 12-16-93; 8:45 am]

BILLING CODE 4510-29-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting; Correction

Notice of the Advisory Committee on Nuclear Waste (ACNW) 60th meeting that was published in the **Federal Register** on Wednesday, December 1, 1993 (58 FR 63403) states that this meeting will start at 3 p.m.; it should be changed to 11 a.m., Monday, December 20, 1993, room P-422, 7920 Norfolk Avenue, Bethesda, Maryland. All other items pertaining to this meeting remain the same as published previously.

For further information contact: Dr. John T. Larkins, Executive Director of the office of the ACRS (telephone 301/492-4516) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: December 14, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93-30944 Filed 12-16-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-57 and 70-687]

Cintichem, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a schedular exemption pursuant to 10 CFR 20.2301 from the requirements of 10 CFR 20.1001-20.1208 and 20.1501-20.2401 to Cintichem, Inc. (the Licensee). Instead of implementing the requirements of 10 CFR 20.1001-20.1208 and 20.1501-20.2401, Cintichem would complete the decommissioning of the Tuxedo, New York facility in accordance with the applicable requirements of 10 CFR 20.1-20.104 and 20.107-20.601 and 20.601. Cintichem would be required to comply with the requirements of 10 CFR 20.1301 and 20.1302. This exemption would be in effect from January 1, 1994, until December 15, 1995, the expiration date of Cintichem's Special Nuclear Material (SNM) license.

Environmental Assessment

Identification of Proposed Action

The approval of the proposed action would permit the Licensee to complete the decommissioning of its Tuxedo, New York facility without implementing 10 CFR 20.1001-20.1208 and 20.1501-20.2401. However, Cintichem would be required to comply with the requirements of 10 CFR 20.1301 and 20.1302. Instead of implementing the requirements of 10 CFR 20.1001-20.1208 and 20.1501-20.2401, Cintichem would complete the decommissioning of the Tuxedo, New York facility in accordance with the applicable requirements of 10 CFR 20.1-20.104, 20.107-20.601 and 20.1301-20.1302. This exemption would be in effect from January 1, 1994, until December 15, 1995, the expiration date of Cintichem's Special Nuclear Material (SNM) license. If decommissioning operations have not been completed at that time, the schedular exemption would be evaluated in conjunction with the renewal of Cintichem's SNM license.

Cintichem began decommissioning its Tuxedo, New York facility following the approval of the Licensee's decommissioning plan and the issuance of a license amendment authorizing decommissioning in January 1992 and an order authorizing decommissioning in November 1991. By January 1, 1994, Cintichem estimates that 80 percent of the decommissioning operations will be completed at the facility and only about 25 millicuries (mCi) of licensed radioactive material will remain at the facility primarily as contamination on structural or equipment surfaces and in the soil in excess of release criteria and natural background. Cintichem estimates that the decommissioning operations at the facility will be completed by August 1994. When decommissioning operations are completed, the Licensee intends to request that the NRC licenses at the facility be terminated and the facility be released for unrestricted use.

Need for Proposed Action

The schedular exemption would defer the implementation of the requirements of 10 CFR 20.1001-20.2401, which is mandatory for all NRC licensees on January 1, 1994, unless the NRC, pursuant to 10 CFR 20.2301 grants an exemption from these requirements. The schedular exemption would allow Cintichem to complete decommissioning of its Tuxedo, New York facility under the current radiation protection requirements of 10 CFR 20.1-20.104 and 20.107-20.601. In addition, Cintichem would be required to comply with the requirements of 10 CFR 20.1301 and 20.1302. The exemption would be in effect from January 1, 1994, until December 15, 1995, the expiration date of Cintichem's Special Nuclear Material (SNM) license. If decommissioning operations have not been completed at that time, the schedular exemption would be evaluated in conjunction with the renewal of Cintichem's SNM license. Based on the following information provided by Cintichem in letters dated July 15, August 27, and October 1, 1993, NRC staff determined that granting the proposed schedular exemption would ensure adequate protection of facility workers and the public and reduce unnecessary costs for Cintichem.

1. The decommissioning project will be approximately 80% completed by

January 1, 1994, the mandatory implementation date of 10 CFR 20.1001–20.2401. In addition, as of July 1993, over 93% of the radioactive material has been removed from the site, with the maximally exposed individual receiving only 1.88 rem for any 12 month period. As such, Cintichem believes that the benefits from implementing 10 CFR 20.1001–20.2401 will not be realized during the remainder of the decommissioning project.

2. Over 97% of the estimated worker radiation exposure will have been incurred by January 1, 1994. The remaining estimated worker radiation exposure for the project after January 1, 1994, is 8.6 person-rem (whole body) which would be received by about 50 workers. The maximum estimated annual whole body dose to any one worker after January 1, 1994, is 0.6 rem.

3. Only about 25 mCi of licensed radioactive material will remain at the site by January 1, 1994. The radioactive material that is estimated to be on-site will be that which is present as contamination on structural or equipment surfaces and in the soil in excess of release criteria and natural background.

4. No work involving the potential for exposure to airborne radioactivity in excess of 10% Maximum Permissible Concentration limits specified to 10 CFR 20.103(a)(1) is expected in 1994.

5. The average estimated individual occupational radiation exposure should not be greater than 0.18 rem (whole body) for 1994.

6. Implementation of the 10 CFR 20.1001–20.2401 requirements would cost an additional 1.24 million dollars. Cintichem believes that the cost of implementing the requirements of 10 CFR 20.1001–20.2401 is not justified from a health and safety perspective.

Environmental Impacts of the Proposed Action

NRC staff initially evaluated the Licensee's decommissioning plan before issuing the license amendment and order authorizing decommissioning of the facility and concluded that the decommissioning of the facility under 10 CFR 20.1–20.601 would have no significant impact on the quality of the human environment. In its decomissioning plan dated October 19, 1990, and in additional information supplied in support of the decommissioning plan, Cintichem estimated that the total exposure for decommissioning their facility would be 368 person-rem (whole body). In evaluating the decommissioning plan NRC staff concluded that Cintichem had developed policies and procedures that maintained occupational radiation exposures within radiation exposure limits and as low as reasonably achievable (ALARA). The total exposure from decommissioning operations, to date, has been 180 person-rem (whole body) or about 56% of the estimated exposure for this point in the decommissioning operations. In addition, in April 1992, Cintichem adopted an administrative dose limit for occupational radiation exposure of 4 rem per year (whole body). To date, the maximally exposed worker has received 1.88 rem (whole body) for any 12-month period.

Cintichem estimated that the occupational exposure that will be received during the remaining decommissioning operations is estimated to be about 8.6 person-rem (whole body) and that this exposure will be received by about 50 workers. The maximum estimated annual whole body dose to any one worker after January 1, 1994, is 0.6 rem.

Cintichem stated that, based on environmental monitoring data to date (thermoluminescent dosimeters and air and water sampling), the estimated annual radiation exposure received by residents living near the site from decommissioning operations at the Cintichem facility will not be in excess of that received from natural background. Staff has reviewed Cintichem's environmental monitoring data and believes that doses to members of the public from decommissioning operations at the Cintichem facility will not be measurable above natural background.

Cintichem concluded that based on these factors the intent of 10 CFR 20.1001–20.2401 would be realized. NRC staff believes that there would be minimal benefit to worker or public protection from implementing the requirements of 10 CFR 20.1001–20.2401 for the duration of the decommissioning operations at the Cintichem facility because existing programs and procedures already in place at the Cintichem facility limit radiation exposures to less than the limits in 10 CFR 20.1001–20.2401, decommissioning operations will be performed for a limited time after January 1, 1994, and the amount of radioactive material that is expected to be on-site after January 1, 1994, is small (25 mCi).

The proposed schedular exemption does not affect plant nonradiological effluents. In addition, the proposed schedular exemption would not authorize a change in licensed activities. Under the exemption, Cintichem would be required to comply with the effluent release limits in 20.1302. In addition, the New York State Department of Environmental Conservation (NYSDEC) has issued proposed effluent limits that are identical to those contained in 10 CFR 20.1302. The NYSDEC regulations are expected to become effective in early 1994. Because the Licensee is also subject to the NYSDEC requirements, the Licensee will be required to maintain effluent releases at those levels specified in 10 CFR 20.1302 by both NRC and NYSDEC. With regard to potential radiological and non-radiological impacts, the Commission concludes that there are no measurable radiological or non-radiological impacts associated with this exemption.

Alternatives to the Proposed Action

NRC staff evaluated the alternative to this proposed action, namely denying the Licensee's request and requiring Cintichem to comply with 10 CFR 20.1001–20.2401 beginning on January 1, 1994. Staff concluded that denying the Licensee's request would not result in lesser environmental impacts than the proposed action because of the lower effluent release and public dose limits in 10 CFR 20.1301 and 1302 would be required by the NRC in both approaches. In addition, doses to workers are expected to be low in both approaches. For reasons discussed above, NRC staff concluded that any lesser environmental impacts that would be expected from adopting the requirements of 10 CFR 20.1001–20.2401 would also not be realized at the Cintichem facility.

In that the NRC concluded that there are no significant environmental impacts that would result from the proposed action, any additional alternatives with equal or greater impacts need not be evaluated.

Alternative Use of Resources

This action does not involve the use of any resources not already evaluated as part of the approval of the Licensee's decommissioning plan.

Agencies and Persons Consulted

The Licensee initiated this action. The New York State Departments of Environmental Conservation and Labor were consulted and had no objections to granting the Licensee's request.

Finding of No Significant Impact

Based on this environmental assessment, NRC staff concludes that the proposed action will not have a significant impact on the quality of the human environment. Therefore, the Commission has determined not to

prepare an environmental impact statement for the proposed action.

For additional information, see the Licensee's request for an exemption dated July 15, 1993 and additional information dated August 27, 1993, and October 1, 1993, that is available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 8th day of December 1993.

For the Nuclear Regulatory Commission.

John H. Austin,

Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93-30804 Filed 12-16-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-390 and 50-391]

Tennessee Valley Authority Availability of Safety Evaluation Report Supplement Related to the Operation of Watts Bar Nuclear Plant, Units 1 and 2

The U.S. Nuclear Regulatory Commission has published the Safety Evaluation Report, Supplement 12 (NUREG-0847, Supp. 12) related to the operation of Watts Bar Nuclear Plant, Units 1 and 2, Docket Nos. 50-390 and 50-391.

Copies of the report have been placed in the NRC's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and in the Local Public Document Room, Chattanooga-Hamilton Library, 1001 Broad Street, Chattanooga, Tennessee 37402, for review by interested persons. Copies of the report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC. 20013-7082. GPO deposit account holders may charge orders by calling 202-512-2249 or 2171. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland this 13th day of December 1993.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Regulatory Commission.

[FR Doc. 93-30803 Filed 12-16-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Accounting Standards for Direct Loans and Loan Guarantees

AGENCY: Office of Management and Budget.

ACTION: Notice of document availability.

SUMMARY: This Notice indicates the availability of another Statement of Federal Financial Accounting Standards, "Accounting for Direct Loans and Loan Guarantees," adopted by the Office of Management and Budget (OMB). The accounting standards were recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in their entirety by OMB.

ADDRESSES: Copies of the Statement of Federal Financial Accounting Standards No. 2, "Accounting for Direct Loans and Loan Guarantees," may be obtained for $6.00 each from the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (telephone: 202-783-3238), Stock No. 041-001-00416-5.

FOR FURTHER INFORMATION CONTACT: Ronald Longo (telephone: 202-395-3993), Office of Federal Financial Management, Office of Management and Budget, 725 17th Street NW.—room 10235, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: This Notice indicates the availability of the Statement of Federal Financial Accounting Standards (SFFAS) entitled "Accounting for Direct Loans and Loan Guarantees," adopted by the Office of Management and Budget (OMB). The accounting standards were recommended by the Federal Accounting Standards Advisory Board (FASAB) in July 1993, and adopted in their entirety by OMB.

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB decide upon principles and standards after considering the recommendations of FASAB. After agreement to specific principles and standards, they are to be published in the **Federal Register** and distributed throughout the Federal government.

John B. Arthur,

Assistant Director for Administration.

[FR Doc. 93-30750 Filed 12-16-93; 8:45 am]

BILLING CODE 3110-01-M

Office of Federal Procurement Policy

Use of Past Performance Information in the Source Selection Process

AGENCY: Executive Office of the President; Office of Management and Budget; Office of Federal Procurement Policy (OFPP).

ACTION: The Office of Federal Procurement Policy is requesting comments and suggestions with regard to the establishment of a pilot program to increase the use of past performance information in the selection of government contractors.

BACKGROUND: One of the highest priorities of OFPP over the coming years will be to reform federal procurement practices so that past performance becomes a crucial part of the contract award process. Whenever firms in the commercial world make decisions about what suppliers to deal with, vendor past performance plays a dominant role in such decisions. Frequently, however, in the federal procurement system past performance is not given sufficient consideration in making contract awards. There is no feature of our procurement system so inimical to excellence in government—and so contrary to common sense—as this one.

In terms of the pilot program, OFPP's intent is to work to emphasize past performance not simply by issuing policy and regulatory language, but by cooperating with interested agencies to implement actual changes in procurement practice. OFPP's approach will be to work concurrently on three initiatives:

1. *Obtaining Pledges.* OFPP will work with interested agencies to develop "pledges." These pledges will commit agencies to using past performance as a major selection criteria—at least as significant as any other non-price factor—in the award of a particular contract or group of contracts coming up for competition over the next 12-18 months. Agencies taking this pledge will form action teams, with OFPP participation and support, to work through the specific procurement issues and processes necessary to implement the pledge.

2. *Development of Guidance Documents.* This initiative is longer range and includes the development of a "how to do it" guide book that explains past performance philosophy, procedures, and practices. The plan is to use materials already developed by other agencies, as well as materials developed by the action team discussed above, for the preparation of a

governmentwide guide that agencies can tailor to meet their needs.

3. *Outreach Program.* Over the next two to three months, OFPP will meet with major Agency Procurement Executives and with the Small Agency Council to solicit ideas, concerns, and suggestions for advancing the use of past performance. Meetings will also be held to obtain the ideas and views of other members of the procurement community, including congressional staffs and various private organizations and groups.

PUBLIC MEETING: A public meeting will be held in room 2010, New Executive Office Building, 725 17th Street NW., Washington, DC, at 10 a.m., January 13, 1994. Persons or organizations wishing to present ideas or suggestions about the pilot program or other specific actions that OFPP and other government agencies can take to increase the use of past performance information in the source selection process are encouraged to attend the meeting. Written statements will be accepted by OFPP at the public meeting and persons or organizations wishing to make oral statements will be given five minutes each to present views. Persons and organizations with similar positions are encouraged to select a common spokesman for the presentation of their views. Persons wishing to attend and/or present statements at the public meeting should contact Ms. Margaret B. Davis at 202–395–6803 prior to 3:30 p.m., January 12, 1994, in order to be cleared for admittance to the New Executive Office Building. Entrance to the building is on 17th Street NW.

DATES: Comments and suggestions in response to this **Federal Register** notice should be received in OFPP by close of business, January 12, 1994. Statements to be presented at the public meeting should be received by January 12, 1994.

ADDRESSES: Comments and statements should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, room 9013, New Executive Office Building, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Charles W. Clark, OFPP, Office of Management and Budget, Washington, DC 20503, 202–395–6805.

Steven Kelman,

Administrator.

[FR Doc. 93–30751 Filed 12–16–93; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33319; File No. S7–27–93]

Consolidated Tape Association; Order Granting Approval of Sixteenth Substantive Amendment to the Restated Consolidated Tape Association Plan and Twentieth Substantive Amendment to the Consolidated Quotation Plan

December 10, 1993.

I. Introduction

On September 14, 1993, the Consolidated Tape Association ("CTA") and the Consolidated Quotation ("CQ") Plan Participants filed with the Securities and Exchange Commission ("Commission" or "SEC") the amendments to the Restated CTA Plan and the CQ Plan pursuant to Rule 11Aa3–1 of the Securities Exchange Act of 1934 ("Act"). The proposed amendments would establish criteria to aid in the determination of the fee payable by a new entrant into either or both plans, to change references to the Midwest Stock Exchange ("MSE") in the plans to the Chicago Stock Exchange ("CHX"), and to update the addresses of the Participants.

Notice of the filing appeared in the **Federal Register** on September 29, 1993.[1] No comment letters were received. For the reasons discussed below, the Commission has determined to grant approval of the proposal.

II. Background

Since the CTA Plan was first approved by the Commission on May 10, 1974,[2] three additional national securities exchanges (Boston Stock Exchange ("BSE"), Cincinnati Stock Exchange ("CSE"), and Chicago Board Options Exchange ("CBOE")) have joined as participants in the Restated CTA Plan. Similarly, two national securities exchanges (CSE and CBOE) and one national securities association (National Association of Securities Dealers ("NASD")) have joined the CQ Plan subsequent to its inception.[3] While the new entrants followed the entry procedures prescribed in the Plans, the Participants determined the manner in which each new entrant should reimburse the other Participants for development costs on a case-by-case basis.[4]

In addition, the name of one of the exchanges and the addresses of the participants needed to be updated.

III. Description and Purpose

The purpose of the amendments is to introduce into the Plans criteria to aid in the determination of the fee payable by a new entrant into either or both Plans. The entry fee is designed to allow the new entrant to reimburse the other Participants for an appropriate portion of the development costs that have been expended in creating the CTA and CQ facilities. By introducing the criteria, the Participants hope to eliminate previous uncertainty surrounding the determination of the Plan-entry fee.

In addition, the amendments change references to the Midwest Stock Exchange ("MSE") in the Plans to the Chicago Stock Exchange ("CHX") in order to comport with that Participant's recent name change. It also updates the addresses of the Participants.

IV. Discussion

The Commission has determined that the CTA/CQ Plan amendments are consistent with the Act. Rule 11Aa3–2(c)(2) under the Act requires that the Commission approve an amendment to an effective National Market System plan if it finds that the amendment is necessary or appropriate in the public interest, for the maintenance of fair and orderly markets, or otherwise in furtherance of the Act. In making such a determination the Commission must examine section 11A of the Act and Rule 11Aa3–2(b)(5)(i), promulgated thereunder. Rule 11Aa3–2(b)(5)(i) provides that every national market system plan, or any amendment thereto, shall provide a description of the manner in which any facility contemplated by the plan or amendment will be operated, including a description of the terms and conditions under which brokers, dealers, and/or self-regulatory organizations will be granted or denied access, including specific procedures and standards governing the granting or denial of access. Accordingly, the Commission finds that implementation of the criteria to aid in the determination of the fee payable by a new entrant into either or both Plans consistent with the Act and the Rules thereunder.

[1] Securities Exchange Act Release No. 32946 (September 22, 1993), 58 FR 50984.

[2] Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799.

[3] The CQ Plan was approved by the Commission on January 22, 1980. Securities Exchange Act Release No. 16518 (January 22, 1980), 45 FR 6526.

[4] The CBOE was the most recent Participant to join the Plans. In establishing an appropriate entry fee, the Participants retained an outside consultant to assess the value to CBOE of the grant of access to the CTA and CQ facilities and negotiated the entry fee based in large part on that valuation.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposed amendments to the CTA and CQ Plans are consistent with the Act, particularly Rules 11Aa3-2(c)(2) and 11Aa3-2(b)(5)(i) thereunder.

It is therefore ordered, pursuant to Section 11A of the Act, that the amendments to the CTA and CQ Plans be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30786 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[5] 17 CFR 200.30-3(a)(27) (1989).

[Release No. 34-33328; File No. SR-AMEX-93-35]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Equity Linked Term Notes

December 13, 1993.

On November 12, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to Equity Linked Term Notes ("ELNs"). Notice of the proposal appeared in the **Federal Register** on November 19, 1993.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

The Amex proposes to amend section 107B of the Amex Company Guide ("Guide") with respect to the listing criteria for ELNs.[4] ELNs are intermediate term (two to seven years), non-convertible, hybrid debt securities, the value of which is linked to the performance of a highly capitalized, actively traded common stock. ELNs may provide for periodic interest payments to holders based on fixed or floating rates, or they may be structured as "zero coupon" instruments with no payments to holders prior to maturity.[5] ELNs may be subject to a "cap" on the maximum principal amount to be repaid to holders upon maturity, and they may feature a "floor" on the minimum principal amount paid to holders upon maturity.

In addition to the general listing criteria contained in Section 107A of the Guide,[6] ELNs must also conform to the special listing criteria of section 107B of the Guide which provide that: (1) Each issuer have a tangible net worth of at least $150 million; (2) the total original issue price of the particular issue of ELNs combined with all of the issuer's other ELNs listed on a national securities exchange or traded through the National Association of Securities Dealers, Inc. Automated Quotation system not be greater than 25% of the issuer's tangible net worth at the time of issuance; (3) each underlying linked stock must have a market capitalization of at least $3 billion, and a trading volume in the 12-month period preceding listing (in all markets in which the underlying security is traded) of at least 2.5 million shares; (4) the issuer of the underlying linked stock must be a U.S. reporting company under the Act; and (5) the issuance of ELNs relating to an underlying linked stock may not exceed 5% of the total outstanding shares of such stock.

The Exchange is now proposing to amend Section 107B in order to provide an alternative to the capitalization and trading volume standards applicable to the underlying linked stock. Specifically, the Exchange is proposing that the underlying linked stock either satisfy the current requirements as set forth above, or have a market capitalization of at least $1.5 billion (one-half the current requirement) and a trading volume of at least 20 million shares over the 12-month period preceding listing (eight times the current requirement).

The Exchange believes that the proposed amendment will benefit investors by expanding the number of securities that may be linked to ELNs, thereby providing investors with enhanced investment flexibility. The Exchange further believes that the proposed alternative standard for market capitalization and trading volume applicable to the underlying linked security is a relatively minor change to the ELNs listing criteria which will not affect the market for the underlying linked stock. Moreover, the remaining guidelines of Section 107B of the Guide with respect to ELNs and underlying linked securities will be unaffected by the proposed amendment.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Specifically, the Commission finds that the proposal will expand the universe of securities that can be linked to ELNs while maintaining the requirement that the linked security be an actively traded common stock issued by a highly capitalized issuer. While the proposal introduces an alternative, reducing by one-half the minimum market capitalization of the linked security, the stock of such an issuer could only be linked to ELNs if its trading volume for the prior 12-month period exceeds by eight times the current minimum trading volume set forth in section 107B. Furthermore, the proposal does not alter any of the other listing requirements applicable to ELNs contained in sections 107A and 107B of the Guide which the Commission has previously approved.[8] As a result, the Commission finds that the proposed amendment is consistent with the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to allow the Exchange to list ELNs linked to stocks satisfying the proposed alternative market capitalization and trading volume guidelines without delay. In addition, the Commission notes it has not been made aware of any adverse comments concerning the ELNs series currently listed and trading on the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1992).

[3] See Securities Exchange Act Release No. 33190 (November 12, 1993), 58 FR 61114.

[4] The Commission approved the listing and trading of ELNs on May 20, 1993. See Securities Exchange Act Release No. 32343 (May 20, 1993), 58 FR 30833 ("Exchange Act Release No. 32343").

[5] The Exchange has agreed to notify the Commission if an issuer of ELNs provides for periodic interest payments to holders based on a floating interest rate. *Id.*

[6] Under section 107A of the Guide, an issue of ELNs must have: (1) A minimum public distribution of one million trading units and a minimum of 400 unit holders; (2) an aggregate market value of at least $20 million; and (3) cash settlement in U.S. dollars and a redemption price of at least three dollars. In addition, the issuer of an ELNs series must have assets of at least $100 million, stockholders' equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. Issuers not meeting these financial criteria must have assets in excess of $200 million and stockholders' equity in excess of $10 million, or, alternatively, assets in excess of $100 million and stockholders' equity of at least $20 million.

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] *See* Exchange Act Release No. 32343, *supra* note 4.

Exchange.[9] Furthermore, the Commission believes that the Amex proposal does not raise any new issues that were not addressed to the Commission's satisfaction when the listing and trading of ELNs was originally approved. Finally, the proposal was published for the full 21-day comment period and no comments opposing the proposal were received by the Commission. Accordingly, the Commission believes that good cause exists to approve the proposed rule change on an accelerated basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR-Amex-93-35) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30849 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33318; File No. SR-CHX-93-28]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Chicago Stock Exchange, Inc., Relating to Corporate Governance Issues

December 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 21, 1993, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to submit the following rule proposal to amend Article Eleventh of the Exchange's Charter; amend Article III Secs. 2 and 9, Article IV Secs. 2, 3, 4, 7, 8 and 12, Article V Sec. 4, Article VI Secs. 2, 3, and 4, and Article X Sec. 1 of the Exchange's Constitution; and amend Article IV Rules 2, 7, 8 and 9, and Article XVIII Rule 1 of the Rule relating to corporate governance issues.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed change is to amend the Exchange's Charter, Constitution and rules relating to corporate governance issues. Specifically, the changes concern (i) the limitation of Governor liability under Delaware law, (ii) providing more flexibility in setting the dates for the annual meeting and election, (iii) providing more flexibility in the number of Governors who can serve on the Executive and Finance Committees, and (iv) granting the President full voting powers on the Executive Committee.

Liability of Governors. Recent amendment of the General Corporation Law of the State of Delaware permits the adoption of a provision in the Certificate of Incorporation of a Delaware corporation limiting or eliminating the potential monetary liability of directors to the corporation or its shareholders by reason of their conduct as directors under certain circumstances. Such a provision will not apply to acts or omissions of directors occurring prior to the approval of the provision by shareholders and the filing of the amendment to the Certificate of Incorporation with the Secretary of State of Delaware.

The amended statute permits the elimination or limitation of personal liability of directors to a corporation or its stockholders (but not to other persons, such as creditors) for monetary damages, except that there can be no elimination or limitation of liability of a director for (i) breaches of the duty of loyalty (that is, the duty to act in good faith and in the honest belief that the action taken is in the best interest of the corporation) to the corporation or its stockholders, (ii) acts or omissions not made in good faith or involving intentional misconduct or knowing violation of law, (iii) unlawful payment of dividends or unlawful stock purchases or redemptions, (iv) transactions from which the director derived an improper personal benefit, or (v) breach of fiduciary duty arising directly or indirectly as a result of a violation of the federal securities laws.

The proposed amendment provides that no later amendment or repeal of its provisions will apply to the liability of a Governor for any acts or omissions occurring prior to such later amendment or repeal. The proposed amendment also eliminates Governor liability for acts occurring after the amendment becomes effective to the fullest extent from time to time permitted by Delaware law, thus automatically incorporating any future statutory revisions limiting Governor liability.

The proposed amendment is important in order to help assure the Exchange's ability to recruit and retain competent Governors. Hundreds of other Delaware corporations have adopted similar amendments to their Articles of Incorporation.

A similar amendment to the Constitution was approved by the Board, the membership and the Securities and Exchange Commission in 1989 and 1990 but the requisite number of membership votes was not obtained to amend the Certificate of Incorporation under the then existing voting requirement.

Annual meeting and election. The proposals provide for two annual meetings to be held in April, an annual election meeting and an annual report meeting. The Board would have the flexibility to annually determine on which business days in April to hold the meetings. The annual election meeting would be held to vote for Governors and the Nominating Committee and the annual report meeting would be held to provide management, the Board and members an opportunity to discuss the previous year's results and current issues facing the Exchange. The Board could determine to have these meetings on the same day or different days in April as was done this year.

Composition of the Executive and Finance Committees. Currently the Executive Committee is composed of 7 Board members plus the two ex-officio members; and the Finance Committee is composed of 5 Board members plus the two ex-officio members. The proposals would provide more flexibility in the number of people who may serve on both Committees by providing that these

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[9] The Exchange presently lists two issues of ELNs linked to the common stock of Oracle Systems, Inc., and one each linked to the common stock of Digital Equipment Corporation and Microsoft Corporation.

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30-3(a)(12) (1992).

numbers are minimums. The number of Committee members could be increased if the Vice Chairman and the Board so determine. These proposals will allow for greater participation and input into the committee governance process.

Voting powers of the President and Chairman. Currently the President has full voting powers on the Board but not on any of the Committees on which he serves as an ex-officio member. The proposal would grant the President full voting powers on the Executive Committee. This would be consistent with his voting powers on the Board since the Executive Committee has full Board authority to act between Board meetings on most issues. He would continue to be an ex-officio member, without the right to vote, on the other designated committees.

The proposals also clarify that the Chairman of the Board shall have full voting powers as a member of the Committee on Organization and Governance and the Compensation Committee, which is in keeping with past practice as well as consistent with the Chairman's responsibilities.

Miscellaneous. The proposals also clarify that neither the Chairman nor the President shall be ex-officio members of any Judiciary Committee appointed under Article IV, Rule 5 of the Exchange's Rules. A Judiciary Committee is appointed by the President on a case by case basis to hear appeals of disciplinary actions. It was never intended for these officers to serve as ex-officio members of a Judiciary Committee.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Action in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change has been approved by the Exchange's membership.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-93-28 and should be submitted by January 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30788 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33322; File No. SR-DTC-93-11]

Self-Regulatory Organizations; The Depository Trust Company; Filing of a Proposed Rule Change Relating to Enhancements to the Automated Tender Offer Program

December 10, 1993.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 15, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The primary purpose of the proposed rule change is to enhance the Automated Tender Offer Program ("ATOP") to include procedures for submission of notices of guaranteed delivery in the processing of tender and exchange offers at DTC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC is proposing to enhance ATOP in order to improve the processing of tender and exchange offers at DTC.[2] At present, a participant who wishes to submit a notice of guaranteed delivery in an offer being processed in ATOP must deliver, outside of DTC, a hardcopy notice of guaranteed delivery to the tender or exchange agent ("Agent"). Under the proposed rule change, participants will be able to use ATOP to satisfy the requirements of an offer for the submission of a notice of guaranteed delivery in the same way that they can now use ATOP to satisfy the requirements of an offer for the delivery of a letter of transmittal. When

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] For a description of ATOP, refer to Securities Exchange Act Release Nos. 27139 (August 14, 1989), 54 FR 34841 [File No. SR-DTC-88-19] (order approving the ATOP program); 29168 (May 7, 1991), 56 FR 22742 [File No. SR-DTC-91-04] (order granting accelerated approval on a temporary basis to modifications of ATOP); 30678 (May 7, 1992), 57 FR 20541 [File No. SR-DTC-91-11] (order approving modifications of ATOP); and 32645 (July 16, 1993), 58 FR 39585 [File No. SR-DTC-92-12] (order approving mandatory use of ATOP).

a participant utilizes ATOP to submit through DTC's Participants Terminal System ("PTS") a notice of guaranteed delivery in an offer, the electronic instructions received by DTC from the participant and retransmitted to the tender or exchange agent will include a single character by which the participant acknowledges its receipt of and agreement to be bound by the notice of guaranteed delivery used in that offer.

DTC also is proposing to modify its DTC/Agent Letter of Agreement. Currently, each time DTC handles an offer with an Agent, DTC and the Agent sign a hardcopy DTC/Agent Letter of Agreement which makes DTC's Voluntary Offerings Program Agents Procedures, including the ATOP procedures, applicable to the offer. DTC adds attachments to the DTC/Agent Letter of Agreement to cover any special procedures to be followed in the offer. Under the proposed rule change, DTC will eliminate the hardcopy DTC/Agent Letter of Agreement for each offer and will use PTS to communicate with an Agent regarding an offer. The current form of DTC/Agent Letter of Agreement for each offer will be replaced with a hardcopy Master Agreement which an Agent will sign once. The Master Agreement will provide that the Master Agreement and Voluntary Offerings Program Agents Procedures will apply to all offers done thereafter through ATOP. After an Agent has entered into the Master Agreement with DTC, PTS will be used to confirm the agreement between the Agent and DTC to handle a particular offer in ATOP and to confirm any special procedures for that offer.

The proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the rules and regulations thereunder applicable to DTC because the proposed rule change will further automate the processing of offers involving securities on deposit at DTC. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or for which it is responsible because the proposed rule change enhances DTC's existing ATOP and ATOP II services.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

[3] 15 U.S.C. 78q-1 (1988).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments from DTC participants or others have not been solicited or received on the text of the proposed rule change. Discussions were held with Agents and participants during the development of the proposed rule change. Some Agents and participants commented on a DTC proposal to require an Agent to transmit to DTC an acknowledgement of receipt of each Agent's Message[4] relating to a notice of guaranteed delivery submitted through ATOP. DTC had made that proposal because although the DTC system will transmit an Agent's Message to the Agent whenever a notice of guaranteed delivery is submitted through ATOP, it is possible that during an offer, particularly during a high volume period on the last day of an offer, operational problems at the Agent or at DTC such as a printer or terminal malfunction, could delay the transmission or printing of Agent's Messages. In commenting on that proposal, some Agents and participants expressed concerns about the operational burden on an Agent of acknowledging receipt of each Agent's Message relating to a notice of guaranteed delivery and about possible delays while waiting for the Agent's acknowledgement. DTC decided not to require an Agent to acknowledge receipt of each Agent's Message relating to a notice of guaranteed delivery. Instead, after further discussions with Agents, DTC added a provision to the ATOP Agent's Procedures. That provision requires the Agent to agree that an Agent's Message relating to a notice of guaranteed delivery submitted by a participant through ATOP is deemed to have been transmitted by DTC and received by the Agent at the time when the notice of guaranteed delivery is transmitted to and received by DTC provided that the Agent's Message is thereafter transmitted by DTC to the Agent. That provision does not affect any other right that an Agent may have to determine that the acceptance of the offer by a notice of guaranteed delivery is defective for some reason.

[4] An Agent's Message is the electronic instruction received by DTC from a participant and retransmitted to the Agent which includes a single character by which the participant acknowledges its receipt of and agreement to be bound by the offeror's letter of transmittal or notice of guaranteed delivery, as the case may be.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File No. SR-DTC-93-11 and should be submitted by January 7, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30853 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33317; File No. SR-NYSE-93-46]

Self-Regulatory Organizations; Filing of Proposed Rule Change by New York Stock Exchange, Inc., to Increase Continuing Listing Fees

December 10, 1993.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 8, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange plans to institute as of January 1, 1994, a rate increase affecting Continuing Listing Fees. The proposed rate increases are as follows:

SCHEDULE OF CONTINUING LISTING FEES

	Current	Proposed
Continuing Fees for Domestic and Foreign Securities [1]		
Per Share/ADR Fee: [2]		
0–2,000	$1,600	$1,650
Over 2,000,000	805	830
Minimum Fees:		
1–10,000,000	15,700	16,170
10,000,001–20,000,000	23,550	24,260
20,000,001–50,000,000	31,400	32,340
50,000,001–100,000,000	47,000	48,410
100,000,001–200,000,000	62,700	64,580
Over 200,000,000	78,100	80,440
Maximum	500,000	No Change
Continuing Fees for Short-Term Securities [3]		
Securities Issued: [4]		
1–10,000,000	$7,850	$8,085
10,000,001–20,000,000	11,775	12,130
20,000,001–50,000,000	15,700	16,170
50,000,001–100,000,000	23,500	24,205
100,000,001–200,000,000	31,350	32,290
Over 200,000,000	39,050	40,220

[1] The Continuing Annual Fee is payable each year on each security listed on the Exchange. The applicable fee is the greater of the Per Share/ADR Fee or the minimum fee.

[2] Rate is per million shares or American Depositary Receipts ("ADRs").

[3] Short term Securities are defined by the Exchange as those securities having a term of less than five years (*e.g.*, index warrants, foreign currency warrants, contingent value rights).

[4] Based on securities issued, not on securities outstanding.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the change is to offset in part the increased costs of supplying services provided by the Exchange. These costs include manpower, automation, utilities and other costs associated with providing marketplace facilities and services.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed fee change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-92-46 and should be submitted by January 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30787 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33315; File No. SR-OCC-93-16]

Self-Regulatory Organizations; The Options Clearing Corporation; Filing of Proposed Rule Change Relating to the Definition of Index Group

December 9, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 26, 1993, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify the definition of Index Group to accommodate new types of stock indexes being developed by the exchanges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify the definition of Index Group to accommodate the development of new types of stock indexes being introduced by the exchanges. For instance, the American Stock Exchange ("AMEX") recently introduced, with the Commission's approval, a new method of calculating stock indexes. This new methodology, called the equal dollar weighting methodology, is designed to ensure that each of the component securities in a stock index is represented in approximately equal dollar amounts.[2] The equal dollar weighting calculation method uses both the market price and the capitalization value of the component stocks to determine the relative representation of stocks within an index.

Article XVII, Section 1 of OCC's By-Laws currently defines the term Index Group as "a group of securities whose inclusion and relative representation in the group is determined by the inclusion and relative representation of their current market prices in a securities index specified by an Exchange." While the current definition of Index Group technically encompasses the indexes employing the equal dollar weighting methodology introduced by AMEX, OCC believes that it should broaden its definition to clarify that it includes such indexes as well as other types of indexes that may be developed by the exchanges in the future.

Accordingly, the proposed change to the current definition of Index Group will eliminate the reference to market price as the method for determining the relative representation of a stock within an index. Instead, the term Index Group will be more broadly defined as "a group of securities whose inclusion and relative representation in the group is determined by their inclusion and relative representation in a securities index specified by an Exchange." OCC believes that this change will clarify that an index need not be based on a strictly proportional representation of the market prices of the index's component stocks.

OCC believes that the proposal is consistent with the requirements of section 17A of the Act because it facilitates the prompt and accurate clearance and settlement of stock index option transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR-OCC-93-16 and should be submitted by January 7, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30781 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] AMEX originally proposed the equal dollar weighting methodology with the introduction of the Biotechnology Index [Securities Exchange Act Release No. 31245 (September 28, 1992), 57 FR 45844 [File No. SR-AMEX-92-1] (order approving proposal to list options on biotechnology index)] and recently submitted a proposal that will expand the use of this methodology with the introduction of the Morgan Stanley Indexes [Securities Exchange Act Release No. 32276 (May 6, 1993), 58 FR 28073 [File No. SR-AMEX-93-8] (notice of filing relating to the listing and trading of options on the Morgan Stanley cyclical and consumer indexes)].

[3] 17 CFR 200.30-3(a)(12) (1992).

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and To Withdraw Unlisted Privileges in an Over-the-Counter Issue

December 10, 1993.

On December 7, 1993, the Chicago Stock Exchange, Inc. ("CHX"), submitted an application for unlisted trading privileges ("UTP") pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, *i.e.*, a security not registered under Section 12(b) of the Act.

File No.	Symbol	Issuer
7-11664	LDDS	LDDS Communications Inc., Common Stock, $.01 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The CHX also applied to withdraw UTP pursuant to Section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
7-11665	PCLB	Price Company, Common Stock, $.10 par value.

A replacement issue is being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before January 3, 1994, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP as well as the withdrawal of UTP would be consistent with Section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30780 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and to Withdraw Unlisted Privileges in an Over-the-Counter Issue

December 10, 1993.

On November 24, 1993, the Chicago Stock Exchange, Inc. ("CHX"), submitted an application for unlisted trading privileges ("UTP") pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, *i.e.*, a security not registered under Section 12(b) of the Act.

File No.	Symbol	Issuer
7-11653	PCCW	Price/Costco, Common Stock, $.10 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The CHX also applied to withdraw UTP pursuant to Section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
7-11654	COST	Costco Wholesale, Common Stock, $.01 par value.

A replacement issue is being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before January 3, 1994, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP as well as the withdrawal of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30785 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19948; 812-8602]

New England Mutual Life Insurance Co., et al; Application for Exemption Under the Investment Company Act of 1940

December 10, 1993.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: New England Mutual Life Insurance Company ("The New England"), New England Variable Life Insurance Company ("NEVLICO"), New England Variable Life Separate Account ("Variable Account"), and New England Securities Corporation ("New England Securities"), collectively, the "Applicants."

RELEVANT 1940 ACT SECTIONS AND RULES: Exemptions requested under section 6(c) of the 1940 Act and from sections 27(a)(3), 27(c)(2), and 27(e) of the 1940 Act, and Rules 6e-2(a)(2), 6e-2(b)(15), 6e-3(T)(b)(13)(ii), 6e-3(T)(b)(13)(vii), 6e-3(T)(c)(4), and 27e-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the offer and sale of certain flexible premium adjustable variable survivorship life insurance policies ("Policies" or "Policy") that enable NEVLICO to: (1) Waive the sales charge deducted from premiums under the Policies; (2) waive notice of refund and withdrawal rights; (3) deduct from premiums an amount that is reasonable in relation to the increased federal income tax burden of NEVLICO resulting from the enactment

of section 848 of the Internal Revenue Code (the "DAC tax"); and (4) use the Variable Account as a funding medium for certain flexible premium variable life insurance policies issued pursuant to Rule 6e-3(T), as well as certain single premium variable life insurance policies and certain variable ordinary life insurance policies (collectively, the "existing policies"), and any other policies that the Variable Account may issue in the future pursuant to Rule 6e-2.

FILING DATE: August 31, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on January 4, 1994, and be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 501 Boylston Street, Boston, MA 02117.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, or Michael V. Wible, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 272-2060.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. NEVLICO is a wholly-owned subsidiary of The New England, a mutual life insurance company organized in Massachusetts in 1835. The Variable Account is a separate investment account of NEVLICO, and is registered under the 1940 Act as a unit investment trust. The Variable Account funds scheduled premium variable life insurance policies, single premium variable life insurance policies, and variable ordinary life insurance policies. It currently consists of nine investment subaccounts (the "Subaccounts"): Money Market Subaccount, Bond Income Subaccount, Capital Growth Subaccount, Stock Index Subaccount, Managed Subaccount, Value Growth Subaccount, Avanti Growth Subaccount, Equity Income Subaccount, and Overseas Subaccount. Each subaccount invests its assets in a different portfolio of the New England Zenith Fund or Variable Insurance Products Fund (collectively, the "Eligible Funds").

2. The existing policies are, and it is intended that the Policies will be, sold through agents who are licensed by state authorities to sell NEVLICO's insurance policies and who are also registered representatives of New England Securities, the principal underwriter of the Variable Account. New England Securities is an indirect wholly-owned subsidiary of The New England.

3. The Policy provides for premium flexibility together with a death benefit and a surrender value that may increase or decrease daily depending in part on the investment performance of the Eligible Funds. The Policy also provides life insurance coverage on two insureds, with a death benefit payable upon the death of the second insured person to die.

4. Premiums under the Policies may be allocated to any of the subaccounts of the Variable Account or to NEVLICO's fixed account (the "Fixed Account"), provided that allocations may be made to a maximum of nine accounts (including the fixed account) at any one time.

5. NEVLICO determines a three-year minimum premium amount based on (i) the Policy's face amount, (ii) the age, gender (unless unisex rates apply), and underwriting class of each of the insureds, (iii) the current level of Policy charges, and (iv) any rider benefit selected. Even if the Policy's net cash value is insufficient to pay the monthly deduction in any month, the Policy is guaranteed not to lapse during this three-year period, provided that the minimum premium amount is timely paid, there has been no withdrawal, loan, or face amount decrease, and the Policy has not been reinstated.

6. NEVLICO also determines a guaranteed minimum death benefit premium (to maturity) which will guarantee that the Policy will mature for the net cash value at age 100 of the younger insured. The guaranteed minimum death benefit premium is based on (i) the Policy's face amount, (ii) the age, gender (unless unisex rates apply), and underwriting class of each of the insureds, (iii) the death benefit option chosen, (iv) the guaranteed level of Policy charges, and (v) any rider benefit selected.

7. The Policy's guaranteed minimum death benefit premium (to age 80) guarantees that the Policy will stay in force until the later of age 80 of the younger insured, or 20 years after the Policy was issued, but no later than the maturity date of the Policy. This premium is based on factors similar to the guaranteed minimum death benefit premium (to maturity), but is determined by an actuary to provide guaranteed coverage to the earlier age.

8. Policy owners may choose among four forms of death benefit under a Policy. Death benefit Option A provides a fixed death benefit equal to the face amount of the Policy, subject to increases required by the Internal Revenue Code, which are enhanced. Death benefit Option B provides a death benefit equal to the face amount of the Policy plus the amount, if any, of the Policy's cash value. Death benefit Option B also is subject to increases required by the Internal Revenue Code, which are enhanced. Death benefit Option C provides a fixed death benefit equal to the face amount of the Policy, subject to increases required by the Internal Revenue Code, which are not enhanced. Death benefit Option D provides a death benefit equal to the face amount of the Policy plus the amount, if any, of the Policy's cash value, subject to increases required by the Internal Revenue Code, which are not enhanced.

9. The Policy provides two minimum guaranteed death benefits. If either minimum guaranteed death benefit is in effect, as determined on the first day of each Policy month, the Policy will not lapse even if the net cash value is insufficient to cover the Monthly Deduction (defined *infra*) for that month. If the death of the second insured occurs while either minimum guaranteed death benefit is in effect, the death benefit under the Policy will be based on the death benefit option in effect on the date of the death. The death benefit will be adjusted before the proceeds are paid.

10. A Policy owner may surrender the Policy for its net cash value at any time while either insured is living. The Policy net cash value equals the Policy cash value reduced by any Policy loan and accrued interest, and by any applicable surrender charge. A Policy owner may receive a portion of the Policy net cash value by making a partial surrender of the Policy. Policy face amount reductions also are available.

11. NEVLICO deducts 9% from each premium as a sales charge. Although NEVLICO currently intends to waive this charge on premiums paid after the fifteenth Policy year, it retains the right not to waive the charge or to reimpose

it prospectively, on a nondiscriminatory basis.

12. NEVLICO also deducts 2.5% from each premium to cover state premium taxes. The 2.5% rate is an average of these taxes, which vary from state to state. In addition, NEVLICO deducts 1% from each premium to recover a portion of its increased federal income tax burden (commonly referred to as the DAC tax) imposed by Section 848 of the Internal Revenue Code.

13. A surrender charge will be deducted from the cash value if, during the first 14 policy years, a Policy is surrendered or lapses, the face amount is reduced, or a partial surrender reduces the face amount. (For joint insureds whose average age was 60½ to 70 at the time the Policy was issued (the "Policy issue date"), the surrender charge period is 9 years; for insureds whose average age on the Policy issue date was 70½ to 80, the period is 6 years; and for insureds whose age was over 80 on the Policy issue date, the period is 5 years.) The surrender charge includes a deferred sales charge and a deferred administrative charge. The maximum surrender charge is set forth in the Policy.

14. The deferred sales charge generally is based on a percentage of the Policy benchmark premium. The Policy benchmark premium equals the level premium necessary to keep a level death benefit Policy, without riders, in force until age 80 of the younger insured (or, if later, 20 years after the Policy issue date), assuming charges are imposed at the guaranteed levels and a 4% interest rate.

15. The deferred sales charge during either of the first two Policy years for insureds whose average age on the Policy issue date was 70 or under is equal to 21% of the premiums paid in the first Policy year. If more than the Policy benchmark premium was paid in the first Policy year, the deferred sales charge in the first two Policy years will be 21% of the Policy benchmark premium.[1] Beginning in the third Policy year, the deferred sales charge is calculated based on an annual benchmark premium, regardless of the amount of premiums actually paid. For Policies which cover insureds whose average age was 60 or under on the Policy issue date, the maximum deferred sales charge will be paid in Policy years 3 through 5. The deferred sales charge in those years will equal 90% of one Policy benchmark premium, but not more than $30 per $1,000 of Policy face amount. After the fifth Policy year, the maximum deferred sales charge will decline on a monthly basis until it reaches 0% in the last month of the fourteenth Policy year.

16. The table below shows the maximum deferred sales charge applicable to Policies covering insureds whose average age on the Policy issue date was 60 or under.[2] The table shows what the charge will be, as a percentage of the benchmark premiums to date, if the lapse, surrender, or face amount reduction of the Policy occurs at the end of each of the Policy years shown. During Policy years 6 through 14, the maximum deferred sales charge declines on a monthly basis.

For surrender, lapse, or face amount reduction of policies during	The maximum deferred sales charge is the following percentage of one benchmark premium per year to date of surrender, lapse, or face amount reduction
Entire policy year:	
3	30.00
4	22.50
5	18.00
Last month of policy years:	
6	13.33
7	10.00
8	7.50
9	5.56
10	4.00
11	2.73
12	1.67
13	.77
14	0.00

17. For insureds whose average age on the Policy issue date was over 60, the deferred sales charge percentages are less than or equal to those described above, with the maximum charge occurring in the third Policy year for insureds with an average age of 70 or under on the Policy issue date, and in the first Policy year for insureds with an average age of over 70 on the Policy issue date.

18. Any surrender charge deducted upon Policy lapse is credited to the Policy cash value upon reinstatement. The surrender charge on the date of reinstatement will be the same as it was on the date of Policy lapse. For purposes of determining the surrender charge on any date after reinstatement, the period the Policy was lapsed will not count.

19. In the case of a partial surrender or face amount reduction, any deferred sales charge that applies will be deducted from the Policy cash value in an amount proportional to the portion of the Policy face amount that is surrendered. The charge is deducted from the Policy cash value in the Subaccounts and the Fixed Account, in proportion to the portion of the Policy cash value that is in each (Sub)account. In no event will the deferred sales charge exceed the limits set forth in subparagraphs (i) and (v) of Rule 6e–3(T)(b)(13).

20. The table below shows the deferred administrative charge that will be deducted for a full or partial surrender, lapse, or face amount reduction. After the end of the fifth Policy year, the charge declines monthly.

For surrender, lapse, or face amount reduction of policies during	Deferred administrative charge per $1,000 of face amount
Entire policy year:	
1	4.00
2	4.00
3	4.00
4	4.00
5	4.00
Last month of policy years:	
6	3.60
7	3.20
8	2.80
9	2.40
10	2.00
11	1.50
12	1.00
13	0.50
14	0.00

21. For insureds whose average age on the Policy issue date was over 60, the deferred administrative charge is less than or equal to that indicated in the table above.

22. On the first day of each Policy month, beginning with the Policy Date,[3]

[1] In most cases, the Policy benchmark premium will be less than the guideline annual premium defined in Rule 6e–3(T)(c)(8)(i) under the 1940 Act. However, there may be instances in which the Policy benchmark premium exceeds the guideline annual premium. In those cases, during the first two Policy years, the deferred sales charge will be capped at 21% of the guideline annual premium. Any amount by which the Policy benchmark premium may exceed the guideline annual premium thereafter will not cause the deferred sales charge to exceed the limits set forth in subparagraphs (i) and (v) of Rule 6e–3(T)(b)(13). (The Applicants represent that this application will be amended during the notice period to include the information presented above.)

[2] Since the relevant data for the first and second Policy years may be calculated based on premiums actually paid, it has been omitted from the table, which pertains to calculations based on the Policy benchmark premium.

[3] If the Policy owner makes a premium payment with the application, the Policy Date is the later of the date Part II of the application has been signed and receipt of the premium payment. If you choose to pay the initial premium upon delivery of the Policy, the Policy will be issued with a Policy Date which generally is five days after issue.

NEVLICO will make a deduction (the "Monthly Deduction") from the Policy cash value. If either minimum guaranteed death benefit is in effect, the Monthly Deduction will be made until the Policy cash value equals zero, whether or not premiums are paid. Otherwise, the Monthly Deduction will be made as long as the Policy net cash value is sufficient to cover the entire Monthly Deduction, whether or not premiums are paid. The Monthly Deduction will reduce the Policy cash value in each Subaccount and in the Fixed Account in proportion to the Policy cash value in each (Sub)account.

23. The Monthly Deduction includes the following charges: (i) A policy fee currently equal to $5.00 per month (guaranteed not to exceed $7.50 per month); (ii) an expense charge currently equal to $0.12 per $1,000 of Policy face amount in the first Policy year, and $0.06 per $1,000 of Policy face amount thereafter (guaranteed not to exceed $0.16 per $1,000 of Policy face amount in the first Policy year, and $0.10 per $1,000 of Policy face amount thereafter); (iii) a minimum death benefit guarantee charge of $0.01 per $1,000 of Policy face amount; and (iv) monthly charges to cover the cost of providing insurance protection under a Policy.[4] The policy fee and expense charge together cover the cost of administering the Policies (such as the cost processing Policy transactions, issuing Policy owner statements and reports, and record keeping), as well as legal, actuarial, systems, mailing and other overhead costs connected with NEVLICO's variable life insurance operations. These charges have been designed to cover actual costs and are not intended to produce a profit.

24. NEVLICO charges the Subaccounts for the mortality and expense risks it assumes, at an annual rate of .90% of the value of each Subaccount's assets attributable to the Policies. The mortality risk assumed is that insureds may live for shorter periods of time than NEVLICO estimated. The expense risk assumed is that NEVLICO's actual costs of issuing and administering Policies exceed its estimates.

25. Applicants propose to make decisions from premiums under the Policies in an amount that is reasonable in relation to the increased federal tax burden of NEVLICO related to the receipt of premiums in connection with the Policies. The increased federal income tax burden of NEVLICO results from the enactment in 1990 of Section 848 of the Internal Revenue Code of 1986 (the "Code"). Section 848 of the Code generally requires life insurance companies to capitalize and amortize, over a period of ten years, part of their general expenses for the current year. The amount of deductions to be amortized is a percentage of the current year's "net premiums"[5] received in connection with certain types of insurance contracts. The percentage varies depending on the type of insurance contract involved, according to a schedule set forth in section 848(c)(1) of the Code. Because the amount of general deductions that must be capitalized and amortized is measured by premiums paid, an increased federal income tax burden results from the receipt of those premiums. In this respect, the impact of section 848 of the Code may be compared to that of a state premium tax.

26. The net effect of section 848 of the Code is to accelerate the realization of income from insurance contracts covered by that Section and, accordingly, the payment of taxes on the income generated by those contracts. Taking into account the time value of money, such acceleration of the realization of income from insurance contracts has the economic consequence of increasing the tax burden of the insurance company related to those contracts. This increased tax burden has been referred to as the DAC tax.

27. The Policies fall under the category of "specified insurance contracts" under Section 848 of the Code, which means that 7.7 percent of the net premiums received under the Policies must be capitalized and amortized. The increased tax burden on NEVLICO resulting from this requirement can be quantified as follows. For every $10,000 of net premiums received by NEVLICO under the Policies in a given year, its general deductions are reduced by $731.50, or (a) $770 (7.7 percent of $10,000) minus (b) $38.50 (one-half year's portion of the ten-year amortization).[6] Using a 35 percent corporate tax rate, this results in an increase in tax for the current year of $256.03. This current increase in tax will be offset partially by deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770 ($77 in each of the following nine years, and $38.50 in the tenth year).

28. In calculating the present value of these increased future deductions, NEVLICO determined, in its business judgment, to apply an 8 percent discount rate. NEVLICO seeks an after-tax rate of return of 8 percent on the investment of its surplus. To the extent that NEVLICO must use surplus to satisfy its increased federal income tax burden under Section 848 of the Code, such surplus is not available for investment. Accordingly, the rate of return on surplus is appropriate for use in this present value calculation.

29. Applying this 8 percent discount rate, and assuming a 35 percent corporate tax rate, the present value of the tax effect of the increased deductions allowable in the following ten years amounts to a tax savings of $174.60. Thus, the present value of the increased tax burden resulting from the effect of section 848 of the Cold on each $10,000 of net premiums received under the Policies is $81.43 ($256.03 minus $174.60).

30. State premium taxes are deductible in computing federal income taxes. Thus, NEVLICO does not incur incremental income tax when it passes on state premium taxes to owners. In contrast, federal income taxes are not deductible in computing NEVLICO's federal income taxes. In order to compensate NEVLICO fully for the impact of section 848 of the Code, NEVLICO must impose an additional charge that would make it whole—for the $81.43 additional tax burden attributable to section 848 of the Code, as well as for the tax on the additional $81.43 itself. This tax can be determined by dividing $81.43 by the complement of the 35 percent federal corporate income tax rate (*i.e.*, 65 percent), resulting in an additional charge of $125.28 for each $10,000 of net premiums, or 1.25 percent.

[4] The cost of insurance charge for a Policy month is equal to the "amount at risk" under the Policy, multiplied by the cost of insurance rate for that Policy month. The amount at risk is determined on the first day of the Policy month, after any applicable Monthly Deduction has been processed, and is the amount by which the death benefit (discounted at the monthly equivalent of 4% per year) exceeds the Policy's cash value.

Cost of insurance rates for a Policy will vary by Policy year, and will depend on each insured's underwriting class, age on the Policy issue date, and gender (if the Policy is gender-based). The joint rates are guaranteed not to be higher than joint rates based on the 1980 Commissioners Standard Ordinary Mortality Tables, with smoker/nonsmoker modifications. The rates actually used may be lower than these maximum rates, depending on NEVLICO's expectations regarding future mortality and expense experience, lapse rates and investment earnings. NEVLICO reviews the adequacy of its current cost of insurance rates annually, and may adjust their levels periodically.

[5] The term "net premiums" is defined in Section 848(d)(1) of the Code as the excess of gross premiums and other conderation received on the covered contracts over return premiums on those contracts and premiums and other consideration incurred for reinsurance of those contracts.

[6] Section 848(a)(2) of the Code provides that the deduction is permitted ratably over the 120-month period beginning with the first month in the second half of the tax year.

31. Tax deductions are of value to a company only to the extent that the company has sufficient gross income available which can be reduced by the deductions. Based on prior experience, NEVLICO expects that all of its current and future deductions will be fully utilized.

32. NEVLICO represents that: The 1 percent DAC tax charge is reasonably related to its increased tax burden under section 848 of the Code, taking into account the amortization permitted by section 848 of the Code; and the use by NEVLICO of an 8 percent discount rate in computing the future deductions resulting from such amortization, such rate being the equivalent of NEVLICO's cost of capital. NEVLICO further represents that a DAC tax charge equal to 1 percent of a premium payment would reimburse it for the impact of Section 848 of the Code (as currently written) on NEVLICO's federal income tax liabilities.[7]

33. NEVLICO has computed its cost of capital as the after-tax rate of return that it seeks to earn on its surplus. NEVLICO's goal for earnings on surplus is consistent with that established by The New England. The New England has computed a rate of return applicable to it and NEVLICO, based on factors such as market interest rates, each company's anticipated long-term growth rate, each company's acceptable level of risk level for this type of business, inflation, and available information about the rates of return obtained by other life insurance companies. NEVLICO represents that it is appropriate to consider these factors when determining its cost of capital.

34. The New England first projects its future growth rate, including the future growth rate of NEVLICO, based on sales projections, current interest rates, the inflation rate, and the amount of surplus that The New England and NEVLICO can provide to support such growth. The New England then uses the anticipated growth rate and other factors cited above to set a rate of return on surplus that equals or exceeds this rate of growth. Of these other factors, market interest rates, the acceptable risk level, and the inflation rate receive significantly more weight than information about the rates of return obtained by other companies.

35. The New England (including NEVLICO) seeks to maintain a ratio of surplus to assets, taking into account its judgement of the risks represented by various components of its assets and liabilities.[8] Maintaining the ratio of surplus to assets is critical to offering competitively priced products and, as to The New England, to maintaining a competitive rating from various rating agencies. Consequently, The New England's surplus should grow at least at the same rate as its assets.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

A. Request for Exemptions From Section 27(a)(3) of the 1940 Act and Rule 6e-3(T)(b)(13)(ii) Thereunder

1. Section 27(a)(3) of the Act generally provides that, with respect to periodic payment plan certificates, the amount of sales load deducted from any one of the first 12 monthly payments, or their equivalent, cannot exceed proportionately the amount deducted from any other such payment, and that the amount deducted from any subsequent payment cannot exceed proportionately the amount deducted from any other subsequent payment.

2. Rule 6e-3(T)(b)(13)(ii) grants an exemption from Section 27(a)(3), provided that the proportionate amount of sales load deducted from any payment during the contract period does not exceed the proportionate amount deducted from any prior payment. This general proviso holds true unless the increase in the sales load deduction is caused by the grading of cash values into reserves or reductions in the annual cost of insurance.

3. The amount of sales charge deducted from premium payments under the Policy is 9%. NEVLICO intends to waive this charge on premiums paid after the fifteenth Policy year. The continuation of this waiver is not contractually guaranteed, however, and NEVLICO may withdraw or modify the waiver at any time. It is possible, therefore, that the waiver could apply with respect to a given Policy at some times and not at others.

4. In addition, in the first two Policy years, NEVLICO will forego the amount, if any, by which the limits imposed by Rule 6e-3(T)(b)(13)(v) exceed the sales charge deducted from premiums plus the deferred sales charge under the Policy. This arrangement, applicable only to the first two Policy years, is guaranteed by contract design.[9]

5. Applicants assert that, arguably, section 27(a)(3) and Rule 6e-3(T)(b)(13)(ii) could prohibit this scenario. Out of an abundance of caution and to remove any doubt on the subject, Applicants request an exemption from those provisions to the extent necessary to permit them to waive the sales charge deducted from premiums under the circumstances described herein.

6. The purpose of the proposed sales load waiver is to more closely reflect NEVLICO's expenses in connection with Policy sales. To the extent NEVLICO determines that the full 9% sales charge on scheduled premiums made after the fifteenth Policy year could generate more revenue than NEVLICO believes necessary to adequately defray its expenses, it may waive the charge. Applicants submit that it would not be in the interest of Policy owners to require the imposition of a sales charge on premiums paid after the fifteenth Policy year that is higher than Applicants deem necessary.

7. Applicants further submit that the policies and purposes of section 27(a)(3) and Rule 6e-3(T)(b)(13)(ii) do not require such a result. Applicants state that section 27(a)(3), in conjunction with the other sales charge limitations in the 1940 Act, was designed to address the perceived abuse of periodic payment plan certificates that deducted large amounts of front-end sales charges so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment. Applicants submit that the sales load structure of the Policies certainly would not have this effect, and is straightforward and easily understood.

[7] NEVLICO represents that it would have to increase the DAC tax charge if future changes in, or interpretations of, Section 848 of the Code or any successor provision further increase NEVLICO's tax burden resulting from the receipt of premiums. Such an increase could result from a change in the corporate tax rate, a change in the 7.7 percent figure, or a change in the amortization period.

[8] For example, as to assets, stocks entail greater risk than investment-grade bonds, and therefore, require The New England (including NEVLICO) to have more surplus than it would need for bonds of equivalent value. Likewise, as to liabilities, obligations arising from individual deferred annuity contracts, for example, represent greater risks than do comparable obligations arising from individual life insurance contracts, and therefore necessitate more surplus.

[9] The Applicants represent that the application will be amended during the notice period to include this additional information.

B. Request for Exemption From Section 27(e) of the 1940 Act and Rules 27e–1 and 6e–3(T)(b)(13)(vii) Thereunder

1. Section 27(e) of the Act and Rules 27e–1 and 6e–3(T)(b)(13)(vii), in effect, require a notice of right of withdrawal and refund, on Form N–27I–1, to be provided to Policy owners entitled to a refund of sales load in excess of the limits permitted by Rule 6e–3(T)(b)(13)(v). Applicants request exemptions from section 27(e) of the 1940 Act and Rules 27e–1 and 6e–3(T)(b)(13)(vii) thereunder to the extent necessary to waive the requirements to provide notice to Policy owners of any withdrawal and refund rights contemplated by those provisions.

2. In the context of NEVLICO's declining contingent deferred sales charge structure, no excess sales load is deducted from premiums; Policy owners have no right to a refund of any excess sales load. Because of the absence of excess sales load, and, therefore, the absence of an obligation to assure repayment of that amount, the Policy does not create a right in the Policy owner which Form N–27I–1 was designed to highlight. Applicants assert that requiring delivery of a Form N–27I–1 under these circumstances could confuse Policy owners, at best, and, at worst, could encourage a Policy owner to surrender during the first two Policy years when it may not be in the owner's best interest to do so. In contrast to owners of insurance policies with front-end loads, owners of Policies with declining contingent deferred sales charges do not foreclose their respective opportunities to receive refunds of monies spent at the end of the first two policy years. Such owners have not paid any excess load, and, if they hold the Policies long enough, may never be obligated to pay a deferred sales charge. Surrendering Policies during the first two Policy years could cost owners more in total sales load (relative to total premium) than they would otherwise pay if their respective Policies, which were designed as long-term investment vehicles, were held for the (longer) period originally intended.

C. Request for Exemption From Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4) Thereunder

1. Section 27(c)(2) of the Act, in effect, prohibits a registered investment company or a depositor or underwriter for such company from deducting amounts other than sales load from payments made under periodic payment plan certificates. Subject to certain conditions, Rule 6e–2(b)(13)(iii) provides an exemption from section 27(c)(2) to the extent that the life insurer "limits the fees for administrative services to amounts that are reasonable in relation to services rendered and expenses incurred." Likewise, subject to certain conditions, Rule 6e–3(T)(b)(13)(iii) provides exemptions from Section 27(c)(2)—including permitting the payment of certain administrative fees and expenses, the deduction of a charge for certain mortality and expense risks, and the deduction of "premium or other taxes" imposed by states or other governmental entities.

2. For variable life insurance policies issued in reliance on Rule 6e–3(T), Rule 6e–3(T)(c)(4) defines "sales load" as the excess of any payments made during the contract period over the sum of certain specified charges and adjustments, including "[a] deduction for and approximately equal to State premium taxes." Applicants submit that the proposed DAC tax charge deduction is akin to a state premium tax charge in that it is an appropriate charge, related to NEVLICO's tax burden, and attributable to premiums received. Applicants submit that the proposed DAC tax charge, like a state premium tax charge, should be treated as other than sales load for purposes of the 1940 Act and the rules promulgated thereunder. Applicants further submit that the proposed deduction of DAC tax charges is properly covered by Rule 6e–3(T)(b)(13)(iii).

3. Out of an abundance of caution, and to remove any doubt on the subject, Applicants hereby apply for an order of the Commission under Section 6(c) of the Act exempting them from section 27(c)(2) of the Act to the extent necessary to permit deductions to be made from premiums received in connection with the Policies in an amount that is reasonable in relation to NEVLICO's increased federal tax burden related to the receipt of such premiums.

4. Applicants also request an exemption from Rule 6e–3(T)(c)(4)(v) to permit the proposed DAC tax charge deductions to be treated as other than sales load for purposes of section 27 of the 1940 Act and the exemptions from various provisions of section 27 found in Rule 6e–3(T).

5. The exemptions requested by Applicants are necessary in order for them to rely on certain provisions of Rule 6e–(T)(b)(13), particularly subparagraph (i), which provides exemptions from sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may rely on Rule 6e–3(T)(b)(13)(i) only if they meet the Rule's alternative limitations on "sales load," as that term is defined in Rule 6e–3(T)(c)(4). Depending upon the load structure of a Policy, these alternative limitations may not be met if the proposed DAC tax charge deduction is treated as sales load.

6. Although the proposed DAC tax charge deduction does not fall squarely into any of the specified charges or adjustments excluded from the definition of "sales load" in Rule 6e–3(T)(c)(4), Applicants have found no public policy reason to treat it as sales load. Applicants represent that the public policy that underlies Rule 6e–3(T)(b)(13)(i), like that which underlies sections 27(a)(1) and 27(h)(1) of the Act, is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants further represent that treating as sales load a tax burden charge attributable to premium payments (*e.g.*, a DAC tax charge) would in no way further this policy, as a tax burden charge deduction bears no relationship to the payment of sales commissions or other distribution expenses, the most common components of "sales load." Applicants submit that the Commission has concurred in this conclusion by excluding deductions for state premium taxes from the definition of "sales load" set forth in Rule 6e–3(T)(c)(4).

7. Applicants represent that the Commission's intent in adopting Rule 6e–3(T)(c)(4) was to tailor the general terms of section 2(a)(35) of the 1940 Act to flexible premium variable life insurance contracts. Just as sections 27(a)(1) and 27(h)(1) implicate the definition of "sales load" in section 2(a)(35), Rule 6e–3(T)(b)(13)(i) implicates the Rule 6e–3(T)(c)(4) definition of "sales load."

8. Section 2(a)(35) excludes from "sales load" deductions from premiums for "issue taxes." Applicants submit that, given the similarity between the Rule 6e–3(T)(c)(4) definition of "sales load" and that in section 2(a)(35), it is consistent with the policies of the 1940 Act to exclude from the definition of "sales load" in Rule 6e–3(T) deductions made to pay an insurer's costs attributable to its tax obligations.

9. Applicants further submit that section 2(a)(35) also excludes administrative expenses or fees that are "not properly chargeable to sales or promotional activities," suggesting that the only deductions intended to fall within the definition of "sales load" are those properly chargeable to sales or promotional activities. Applicants maintain that because the proposed DAC tax charge deduction will be used to compensate NEVLICO for its increased federal tax burden attributable

to the receipt of premiums, and is not properly chargeable to sales or promotional activities, not treating the proposed DAC tax charge deduction as "sales load" is consistent with the policies of the 1940 Act.

10. In connection with the relief requested, Applicants represent that:

A. NEVLICO will monitor the reasonableness of the proposed DAC tax charge deduction;

B. the registration statement for the Policies to which the proposed DAC tax charge deduction applies will (i) disclose the DAC tax charge, (ii) explain the purpose of that charge, and (iii) state that the charge is reasonable in relation to NEVLICO's increased federal tax burden under Section 848 resulting from the receipt of premiums; and

C. the registration statement for the Policies to which the proposed DAC tax charge deduction applies will contain as an exhibit an actuarial opinion as to (i) the reasonableness of the DAC tax charge deduction in relation to NEVLICO's increased federal tax burden under Section 848; (ii) the reasonableness of the after tax rate of return that is used in calculating such deduction; and (iii) the appropriateness of the factors taken into account by NEVLICO in determining the after tax rate of return.

D. Request for Exemption From Rules 6e-2(a)(2) and 6e-2(b)(15) Under the 1940 Act

1. The Variable Account currently relies on Rule 6e-2 for exemptions from certain provisions of the 1940 Act in connection with the existing policies. In addition, the Variable Account intends to rely on Rule 6e-3(T) for exemptions from certain provisions of the 1940 Act in connection with the Policies.

2. A separate account relying on Rule 6e-2 must derive its assets (other than advances by the life insurance company) "solely from the sale of variable life insurance contracts as defined in paragraph (c)(1) of this Rule 6e-2." Paragraph (c)(1), in turn, defines a variable life insurance contract, to which Rule 6e-2 applies, somewhat differently from the definition of a flexible premium variable life insurance contract, to which Rule 6e-3(T) applies. Thus, a separate account issuing policies in reliance on Rule 6e-3(T) technically may not be deriving its assets "solely" from the sale of "variable life insurance contracts" as defined in Rule 6e-2(c)(1). As a result, the Variable Account may not qualify to rely on the exemptions provided by Rule 6e-2 as to the existing policies (and any other policies it may issue in the future in reliance on Rule 6e-2) if it also funds flexible premium variable life insurance policies in reliance on the exemptions provided by Rule 6e-3(T).

3. Applicants also note that the exemptions provided by Rule 6e-2(b)(15) are available only to separate accounts "all the assets of which consist of the shares of * * * management investment companies which offer their shares exclusively to variable life insurance separate accounts * * *." The Variable Account technically may not qualify as a "variable life insurance separate account" and, absent relief from Rule 6e-2(a)(2), may not be able to rely on Rule 6e-2(b)(15).

4. Applicants submit that, as a technical matter, using the Variable Account as a funding medium for policies issued pursuant to Rule 6e-3(T), as well as for the existing policies (or other policies it may issue in the future in reliance on Rule 6e-2), may render inappropriate the continued reliance of the Variable Account on Rule 6e-2.

5. Out of an abundance of caution and to remove any doubt on the subject, Applicants hereby apply for an order of the Commission under Section 6(c) of the Act exempting the Variable Account from the provisions of Rule 6e-2(a)(2) and Rule 6e-2(b)(15) to the extent necessary to permit it to issue one or more flexible premium variable life insurance policies in reliance on Rule 6e-3(T) under the Act, without losing its ability to rely on Rule 6e-2 with regard to the existing policies and any other policies that NEVLICO may issue in the future pursuant to Rule 6e-2.

6. Applicants submit that no policy reason would justify prohibiting use of the same separate account as funding medium for scheduled premium variable life insurance policies governed by Rule 6e-2 as well as flexible premium variable life insurance policies governed by Rule 6e-3(T). The interests of owners of existing policies and the Policies, the interests of NEVLICO with respect to both scheduled- and flexible-premium variable life insurance policies, and the regulatory frameworks of Rule 6e-2 and Rule 6e-3(T), are sufficiently parallel that the proposed use of the same separate account for both types of insurance policies should not prejudice owners of any of those policies. Furthermore, the economies of scale to be realized from the proposed use of the same separate account should benefit owners of both scheduled- and flexible-premium policies. Applicant asserts that the Commission has supported this conclusion by adopting Rule 6e-3(T), which applies to separate accounts with assets derived from both scheduled- and flexible-premium variable life insurance contracts, and by proposing amendments to Rule 6e-2 specifically permitting both types of variable life insurance contracts to be funded by a single separate account.

Applicant's Conclusion

Applicants submit that, for the reasons and based upon the facts set forth above, the requested exemptions from Sections 27(a)(3), 27(c)(2), and 27(e) of the 1940 Act, and Rules 6e-2(a)(2), 6e-2(b)(15), 6e-3(T)(b)(13)(ii), 6e-3(T)(b)(13)(vii), 6e-3(T)(c)(4), and 27e-1 thereunder—to permit the offer and sale of the Policies that enable NEVLICO to: (i) waive the sales charge deducted from premiums under the Policies; (ii) waive notice of refund and withdrawal rights; (iii) deduct from premiums an amount that is reasonable in relation to the increased federal income tax burden of NEVLICO resulting from the imposition of a DAC tax; and (iv) use the Variable Account as a funding medium for both scheduled- and flexible-premium variable life insurance polices—meet the standards set out in Section 6(c) of the 1940 Act. In this regard, Applicants assert that the exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30850 Filed 12-16-93; 8:45 am]

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[Release No. 35-25942]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

December 10, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 3, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or

declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Eastern Utilities Associates, et al. (70-8255)

Eastern Utilities Associates ("EUA"), a registered holding company, and its nonutility subsidiary company, EUA Cogenex Corporation ("Cogenex") (collectively, "Applicants"), both located at P.O. Box 2333, Boston, Massachusetts 02107, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 12(f) of the Act and rules 43, 45 and 50(a)(5) thereunder. A notice of the application-declaration was initially issued by the Commission on October 1, 1993 (HCAR No. 25901) ("October Notice").

By order dated December 8, 1993 (HCAR No. 25941), Cogenex was authorized to acquire James L. Day Company, an energy management service company. In the order, the Commission reserved jurisdiction over the acquisition of Northeast Energy Management, Inc. ("NEMI"), a Maine corporation engaged in energy services contracting, pending completion of the record. For the year ended December 31, 1992, NEMI had approximately $7.2 million of assets, approximately $3.1 million of revenues, and approximately $873,000 of net income. For the six months ended June 30, 1993, NEMI had approximately $7.3 million of assets, approximately $1.1 million of revenues, and approximately $418,000 of net income. By post-effective amendment, the Applicants now propose to make certain changes to the structure of the acquisition.

As stated in the October Notice, Cogenex proposes to acquire NEMI by exchanging common stock of NEMI to Cogenex for common stock of EUA. The outstanding common stock of NEMI would then be cancelled by operation of law. NEMI would be acquired by a to-be-formed wholly owned subsidiary of Cogenex ("NEWCO") and NEMI would be merged into NEWCO. The NEMI acquisition would be a taxable transaction and would be accounted for under the pooling method of accounting.

EUA will issue to the sole stockholder of NEMI an amount of EUA common shares which equals an aggregate consideration for NEMI of $19.8 million, plus an amount equal to the accounts receivable of NEMI due under an agreement with Central Maine Power Company to be received by NEWCO which relate to the period prior to the closing ("Closing"), less the liabilities of NEMI assumed by operation of law in connection with the merger of NEMI into NEWCO ("Purchase Price"). The accounts receivable of NEMI at the Closing are estimated to be $416,093 through January 30, 1994, and the assumed liabilities as of the Closing date are estimated to be approximately $8.5 million. A dividend in an amount equal to NEMI's retained earnings through the Closing date will be declared and paid by NEMI prior to the Closing. If NEMI borrows funds for the purpose of paying the dividend, such amounts shall be included in the NEMI liabilities assumed by NEWCO.

The Purchase Price, estimated to be approximately $11.8 million, shall be paid at Closing which is anticipated to occur during the time in which EUA's common shares are traded ex-dividend. Assuming an EUA common share price of $28.00 per share, approximately 425,000 common shares of EUA would be issued in the acquisition. The actual number of EUA Shares to be delivered at Closing shall be determined by dividing the Purchase Price, calculated as described above, by the arithmetic average of (x) the average of the high and low selling price of EUA common shares on the first day prior to the Closing date that such shares are trading ex-dividend and (y) the average of the high and low selling price of EUA common shares on the second day prior to the Closing date that such shares are trading ex-dividend. Each high and low selling price shall be as reported in The Wall Street Journal. The common shares of EUA will be registered under the Securities Act of 1933 and applicable blue sky laws for resale by the NEMI stockholder.

Cogenex also proposes to incorporate NEWCO, a Massachusetts business corporation. The initial authorized capitalization of NEWCO shall be 200,000 shares of common stock, $0.01 par value, of which 10,000 shares will be issued to Cogenex for $100.00. Cogenex further proposes to make, through December 31, 1998, investments in NEWCO in amounts equal to the liabilities of NEMI to be discharged in connection with the Closing, estimated to be approximately $8.5 million, plus an additional $1 million for working capital purposes and for payment of the consideration due under the noncompetition agreement. Such investments in NEWCO by Cogenex may take the form of any combination of capital contributions by Cogenex and short-term loans by Cogenex which will be effected upon the same terms as Cogenex borrows funds under the EUA System credit lines. Cogenex may guarantee the obligations of NEWCO up to an aggregate amount of approximately $500,000.

Maine Yankee Atomic Power Company (70-8313)

Maine Yankee Atomic Power Company ("Maine Yankee"), 83 Edison Drive, Augusta, Maine 04336, an indirect nuclear generating subsidiary of Northeast Utilities and of New England Electric System, both registered holding companies, has filed a declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder. Maine Yankee proposes to issue and sell, no later than December 31, 1996, short-term notes ("Notes") under bank lines of credit, and/or commercial paper ("Commercial Paper") up to an aggregate amount at any one time outstanding of $21 million. Maine Yankee has existing bank lines of credit permitting the issuance of notes aggregating $21 million, including $8 million with The Bank of New York and $13 million with The First National Bank of Boston. As of September 30, 1993, Maine Yankee had issued an outstanding $4.045 million in Notes under these lines of credit. Maine Yankee does not currently maintain Commercial Paper obligations.

The Notes will mature in nine months or less from the date of issuance and will have an effective interest cost not exceeding the effective interest cost of borrowings at the prime rate, as in effect from time-to-time at the banks. Commitment fees will not exceed ½ of 1% of the lines of credit from such banks.

The Commercial Paper will mature in nine months or less from the date of issuance and will be issued pursuant to an exception from competitive bidding through dealers in commercial paper and sold to institutional investors. The Commercial Paper may be backed by Maine Yankee's available lines of credit, revolving credit agreements or other liquidity or credit enhancement devices, including letters of credit or insurance. Maine Yankee will pay a fee to the dealers in the Commercial Paper, estimated to be ⅛ of 1% per annum, on a discount basis, of the amounts borrowed, as compensation for their services with regard to the issuance of the Commercial Paper. The interest rate

on the Commercial Paper will vary depending upon the interest rates prevailing in the relevant market at the time of issuance.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-30851 Filed 12-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 19947; 812-8320]

The RBB Fund, Inc., et al.; Application for Exemption

December 10, 1993

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: The RBB Fund, Inc. ("RBB"); and BEA Associates ("BEA"), on behalf of itself and any subsequently created registered open-end investment companies advised by BEA (collectively, with RBB, the "Funds").

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) from the provisions of section 17(a).

SUMMARY OF APPLICATION: Applicants seek a conditional order under sections 6(c) and 17(b). The order would grant relief from the provisions of section 17(a) to permit in-kind redemptions of shares of certain open-end registered investment companies by shareholders who are "affiliated persons" of the investment companies solely by reason of owning, controlling, or holding with power to vote, five percent or more of the investment companies' outstanding shares.

FILING DATE: The application was filed on March 22, 1993, and amended on June 21, 1993, September 13, 1993, and December 9, 1993. Applicants have agreed to file an additional amendment during the notice period. This final amendment will not affect the information contained in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 4, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 Fifth Street, NW., Washington, DC 20549. Applicants, Bellevue Corporate Center, 103 Bellevue Parkway, Suite 152, Wilmington, Delaware 19809.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 272-5287, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. RBB is an open-end management investment company incorporated in Maryland. It currently operates or proposes to operate seventeen separate investment portfolios.[1]

2. BEA is a New York general partnership that serves as adviser to the BEA Portfolios. The BEA Portfolios are designed primarily for investors seeking investment of funds held in an institutional, fiduciary, advisory, agency, custodial or other similar capacity, including the investment of funds held or managed by broker-dealers, investment counselors, insurance companies, employee benefit plans, colleges, churches, charities, corporations and other institutions. Shares in each of the BEA Portfolios are currently available for purchase by investors who have entered into an investment management agreement with BEA. The current initial minimum investments in the International Portfolio, the Emerging Markets Portfolio, the Core Equity Portfolio, the Core Fixed Income Portfolio, the International Fixed Income Portfolio, and the Municipal Portfolio are $1 million. For investors who have entered into investment management agreements with BEA (or officers of existing BEA clients), the initial minimum investment is $100,000. The current initial minimum investment in the Fixed Income Portfolio is $100,000.[2] All such shares are purchased at net asset value, without the imposition of any sales load or commission.

3. Shares in each of the RBB Portfolios are currently available to the public continuously through authorized dealers. The current minimum initial investment for the RBB Portfolios is $1,000. The price paid for RBB Portfolio shares is the net asset value per share plus a sales load.

4. Shareholders may redeem some or all of their shares of the Portfolios at any time. The redemption price is the net asset value per share next determined after the initial receipt of proper notice of redemption, minus a redemption fee, if applicable. Currently, the applicable redemption fees are .50% for the Fixed Income Portfolio, 1% for the International Portfolio, and 1.5% for the Emerging Markets Portfolio, of the net asset value of the shares being redeemed. The redemption fee is retained by the applicable Portfolio and may be used to cover the costs of liquidating securities to meet redemption requests. The Core Equity Portfolio, the Core Fixed Income Portfolio, the International Fixed Income Portfolio, the Municipal Portfolio and the RBB Portfolios currently charge no redemption fee. RBB reserves the right, however, if conditions exist that make cash payments undesirable, to honor requests by shareholders to redeem the shares of a Current Portfolio in whole or in part in securities, on a pro rata basis, monitored by the investment advisers and valued as they would be valued for purposes of computing the net asset value of a Current Portfolio. If payment is made in securities, no redemption fee is charged a shareholder in the International Portfolio, the Emerging Market Portfolio, or the Fixed Income Portfolio.

5. RBB has elected to be governed by rule 18f-1 under the Act. This election requires a Current Portfolio to redeem

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[1] The portfolios of RBB ("Portfolios") that presently intend to rely on the requested relief are: BEA International Equity Portfolio (the "International Portfolio"), BEA Emerging Markets Equity Portfolio (the "Emerging Markets Portfolio"), BEA Strategic Fixed Income Portfolio (the "Fixed Income Portfolio"), BEA U.S. Core Equity Portfolio (the "Core Equity Portfolio"), BEA U.S. Core Fixed Income Portfolio (the "Core Fixed Income Portfolio"), BEA International Fixed Income Portfolio (the "International Fixed Income Portfolio"), BEA Municipal Bond Fund Portfolio (the "Municipal Portfolio") (collectively, the "BEA Portfolios"); The RBB Laffer/Canto Equity Portfolio, The RBB Warburg Pincus Growth and Income Portfolio, The RBB Balanced Portfolio, The RBB Municipal Bond Portfolio, The RBB Government Securities Portfolio, and The RBB High Yield Bond Portfolio (collectively, the "RBB Portfolios" and, together with the BEA Portfolios, the "Current Portfolios").

[2] Officers and employees of BEA and any BEA pension or profit-sharing plan may invest in the BEA Portfolios without being subject to the minimum investment limitation and without entering into an investment management agreement with BEA.

its shares solely in cash up to the lesser of $250,000 or 1% of its net asset value during any ninety day period for any one shareholder. Thus, RBB may make redemptions in kind to shareholders only to the extent that such elections exceed the rule 18f–1 election limitations.

6. RBB has established the following guidelines for selecting securities to be distributed in connection with an in-kind distribution: Securities will be distributed on a pro rata basis after excluding (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933, and (b) securities issued by entities in countries that restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles such as RBB. In addition, cash will be distributed in lieu of shares above round lots (*i.e.*, 100 shares) or fractional shares.

7. Applicants seek relief to permit shareholders who are "affiliated persons" of any of the Portfolios only within the meaning of section 2(a)(3)(A) of the Act (*i.e.*, by virtue of their ownership of 5% or more of the voting securities thereof) (the "Affiliated Shareholders") to redeem their shares in-kind, subject to the limitations of RBB's rule 18f–1 election. The relief sought would not extend to shareholders who are "affiliated persons" within the meaning of sections 2(a)(3)(B)–(F). Shares distributed to Affiliated Shareholders as redemptions in-kind will be selected and valued pursuant to the same procedures used for the selection and valuation of shares distributed to other shareholders (the "non-Affiliated Shareholders") as redemptions in-kind. Thus, all such shares will be valued in the same manner as they would be valued for purposes of computing a Portfolio's net asset value, which in the case of securities traded on a public securities market for which quotations are available is their last quoted sales price, or, if there is no such reported sale, is currently at the mean of the bid and asked prices prior to the valuation.

Applicants' Legal Conclusions

1. Section 17(a)(2) makes it unlawful for an affiliated person of a registered investment company to purchase from the investment company any securities or other property, other than securities of which the seller is the issuer. Because the Affiliated Shareholders each hold 5% or more of the voting securities of one or more of the Portfolios, they are each deemed, pursuant to section 2(a)(3)(A), to be an affiliated person of the Portfolios whose securities they hold. Consequently, an Affiliated Shareholder of any Portfolio would be prohibited by section 17(a)(2) from redeeming its shares in the Portfolio in-kind.

2. Section 17(b) provides that the SEC shall exempt proposed transactions from the restrictions of section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Exemptions under section 17(b) are limited, however, to a transaction-by-transaction basis.

3. Under section 6(c), the Commission may exempt classes of persons and transactions from section 17(a) if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that they have satisfied the requirements of sections 6(c) and 17(b). Applicants believe that the use of objective, verifiable standards for the selection and valuation of any securities to be distributed in connection with a redemption in-kind will ensure that all such redemptions will be on terms that are reasonable and fair to the Portfolios, the Affiliated Shareholders, and non-Affiliated Shareholders, and will not involve overreaching on the part of any person. Similarly, the proposed transactions are consistent with the investment policy of each Portfolio, which expressly allows redemption in-kind at the discretion of the Fund. Finally, because Affiliated Shareholders who wish to redeem shares would receive the same in-kind distribution of securities and cash as non-Affiliated Shareholders wishing to redeem shares (and only if the Fund determines that such redemptions in-kind would be in the best interest of the Portfolio and its shareholders), applicants believe that the terms of the proposed transactions are reasonable and fair to all parties and are consistent with the protection of investors and the provisions, policies and purposes of the Act.

Applicants' Conditions

In-kind redemptions by Affiliated Shareholders will be effected subject to the following conditions:

1. The securities distributed to both Affiliated Shareholders and non-Affiliated Shareholders pursuant to a redemption in-kind (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which quoted bid and asked prices are available.

2. In-Kind securities will be distributed on a *pro rata* basis after excluding (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933, and (b) securities issued by entities in countries which restrict or prohibit the holdings of securities by non-nationals other than through qualified investment vehicles, such as the Fund. In addition, cash will be distributed in lieu of shares above round lots (e.g., 100 shares) or fractional shares.

3. The Board of Directors of the Fund, including a majority of the directors who are not "interested persons" (as defined in section 2(a)(19) of the Act) of the Fund, will determine no less frequently than annually: (a) whether the In-Kind Securities have been distributed in accordance with condition 1; and (b) whether the distribution of any such In-Kind Securities is consistent with the policies of the relevant Portfolio as reflected in the prospectus of the Portfolio. In addition, the Board of Directors shall make and approve such changes as the Board deems necessary in its procedures for monitoring compliance by the applicants with the terms and conditions of this application.

4. The Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any redemption in-kind by an Affiliated Shareholder occurred, the first two years in an easily accessible place, a written record of each such redemption setting forth a description of each security distributed, the identity of the Affiliated Shareholder, the terms of the distribution, and the information or materials upon which the valuation was made.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30852 Filed 12–16–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2694]

Missouri; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on December 1, 1993, I find that the Counties of

Bollinger, Cape Girardeau, Carter, Howell, Iron, Jefferson, Madison, Oregon, Reynolds, Ripley, St. Francois, St. Louis, Shannon, and Wayne constitute a disaster area as a result of damages caused by severe storms, tornadoes, and flooding November 13–19, 1993. Applications for loans for physical damage may be filed until the close of business on January 31, 1994, and for loans for economic injury until the close of business on September 1, 1994, at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Boulevard, Suite 102, Forth Worth, Texas 76155, or other locally announced locations. In addition, applications for economic injury loans from small business located in the following contiguous counties may be filed until the specified date at the above location: Butler, Crawford, Dent, Douglas, Franklin, Ozard, Perry, St. Charles, Ste. Genevieve, Scott, Stoddard, Texas, Washington and the City of St. Louis in Missouri; Clay, Fulton, Randolph, and Sharp in Arkansas; and Alexander, Monroe, Madison, Union, and St. Clair in Illinois.

The interest rates are:

	Percent
For Physical Damage	
Homeowners with credit available elsewhere	7.250
Homeowners without credit available elsewhere	3.625
Businesses with credit available elsewhere	7.900
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 269406 and for economic injury the numbers are 813300 for Missouri; 813400 for Arkansas; and 813500 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: December 7, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–30548 Filed 12–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2685; Amdt. 2]

Oregon; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of an earthquake on September 20, 1993, and subsequent aftershocks. Applications from victims in the previously designated counties will be accepted through January 5, 1994.

All other information remains the same, i.e., the termination date for filing applications for economic injury is July 6, 1994.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 8, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–30547 Filed 12–16–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 1918]

Availability of Groundrules for U.S. Initiatives on Joint Implementation

ACTION: Notice of availability.

SUMMARY: In the U.S. Climate Change Action Plan, the President directed the Department of State, in consultation with other federal agencies, to develop the U.S. Initiative on Joint Implementation (USIJI) as a pilot program. In developing this initiative, the State Department is directed to publish initial groundrules for the USIJI for public review and comment. These groundrules set forth criteria for the operation of a pilot program, specifically designed to establish an empirical basis for considering domestic and international approaches to joint implementation.

PUBLIC COMMENT: Written comments on the groundrules for the U.S. Initiative on Joint Implementation are invited. Comments should be submitted to the Department of State no later than January 25, 1993. Comments or questions should be directed to: Mr. Daniel A. Reifsnyder, Director, Office of Global Change, Room 4329–A, Department of State, 2201 C Street NW., Washington, DC 20520–7818, telephone: (202) 647–4069.

SUPPLEMENTARY INFORMATION: The U.S. Climate Change Action Plan, announced by President Clinton on October 19, 1993, sets forth a set of measures designed to achieve the goal of returning U.S. greenhouse gas emissions to 1990 levels by the year 2000 with domestic actions alone. However, the Administration recognizes the enormous potential for cost-effective greenhouse gas emission reductions in other countries. The Administration has therefore announced a pilot program—the U.S. Initiative on Joint Implementation [USIJI]—to help establish an empirical basis for considering approaches to joint implementation internationally and thus help realize the potential of joint implementation both to combat the threat of global warming and to promote sustainable development.

The State Department, in consultation with other U.S. Agencies, is to develop the pilot USIJI. As a first step, the initial groundrules are published here and public comments are solicited.

The process used to develop the joint implementation groundrules began with the President's commitment in April 1993 to return emissions to their 1990 levels by the year 2000. Experts, both in government agencies and in the environmental and business communities, urged that joint implementation be considered in developing the U.S. Climate Change Action Plan. A first public session was held as part of a White House-sponsored Workshop on Global Climate Change from June 10–11, 1993. At this meeting, a State Department-chaired working group on joint implementation convened more than 30 invited experts and 75 attendees to examine the issues surrounding joint implementation. A second workshop involving a number of different participants further explored issues that might be involved in establishing criteria upon which to build a joint implementation program. After these public sessions, and based on extensive further deliberation among federal agencies, the draft groundrules were produced.

While these groundrules are proposed for use in a domestic pilot program, the approach taken will likely form the basis for U.S. efforts internationally to promote adoption of criteria for joint implementation under the Framework Convention on Climate Change (FCCC). The FCCC allows Parties to implement policies and measures jointly with other Parties, with explicit reference to joint implementation in Article 4:

Paragraph 2(a): "* * * Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the

Convention, and in particular, that of this subparagraph;"

Paragraph 2(d): "* * * The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above."

Groundrules for U.S. Initiative on Joint Implementation

The following describes the U.S. Initiative on Joint Implementation (USIJI), which shall be established as a pilot program.

Section 1—Purpose

The purpose of the pilot program shall be to:

(1) Encourage the rapid development and implementation of cooperative, mutually voluntary projects between U.S. and foreign partners aimed at reducing net emissions of greenhouse gases, particularly projects promoting technology cooperation with the sustainable development in developing countries and countries with economies in transition to market economies;

(2) Promote a broad range of cooperative, mutually voluntary projects to test and evaluate methodologies for measuring, tracking and verifying costs and benefits;

(3) Establish an empirical basis to contribute to the formulation of international criteria for joint implementation;

(4) Encourage private sector investment and innovation in the development and dissemination of technologies for reducing net emissions of greenhouse gases; and

(5) Encourage participating countries to adopt more complete climate protection programs, including national inventories, baselines, policies and measures, and appropriate specific commitments.

Section 2—Evaluation and Reassessment of Pilot Program

The pilot program shall be evaluated and reassessed within two years of its inception or within six months of adoption of international criteria for joint implementation by the Conference of the Parties to the United Nations Framework Convention on Climate Change, whichever is earlier.

Section 3—Eligible Participants

A. Domestic

(1) Any U.S. citizen or resident alien;

(2) Any company, organization or group incorporated under or recognized by the laws of the United States; or

(3) Any U.S. federal, state or local government entity.

B. Foreign

(1) Any country that has signed, ratified or acceded to the United Nations Framework Convention on Climate Change;

(2) Any citizen or resident alien of a country identified in B(1) of this section;

(3) Any company, organization or group incorporated under or recognized by the laws of a country identified in B(1) of this section; or

(4) Any national, provincial, state, or local government entity of a country identified in B(1) of this section.

Section 4—Evaluation Panel

A. An Evaluation Panel is hereby established.

B. The Evaluation Panel shall consist of eight members, of whom:

(1) One shall be an employee of the Department of Energy, who shall serve as Co-Chair;

(2) One shall be an employee of the Environmental Protection Agency, who shall serve as Co-Chair;

(3) One shall be an employee of the Agency for International Development;

(4) One shall be an employee of the Department of Agriculture;

(5) One shall be an employee of the Department of Commerce;

(6) One shall be an employee of the Department of the Interior;

(7) One shall be an employee of the Department of State; and

(8) One shall be an employee of the Department of the Treasury.

C. The Panel shall be responsible for:

(1) Advising and assisting prospective U.S. and foreign participants on the technical parameters (including with respect to baselines, measuring and tracking) of projects submitted for inclusion in the USIJI;

(2) Accepting project submissions from eligible U.S. participants and their foreign partners;

(3) Reviewing and evaluating project submissions;

(4) Approving or rejecting project submissions for inclusion in the USIJI, based on criteria contained in section 5;

(5) Providing written reasons for its decisions, which shall be made publicly available, within 90 days of receipt of a complete submission or resubmission;

(6) Certifying net emissions reductions estimated to result from projects; and

(7) Preparing an annual report of its activities, including a summary or approved projects.

Section 5—Criteria

A. To be included in the USIJI, the Evaluation Panel must find that a project submission:

(1) Is accepted by the government of the host country;

(2) Provides data and methodological information sufficient to estimate current and future net greenhouse gas emissions in the absence of, and as the result of, the project;

(3) Will produce net reductions in greenhouse gas emissions that would not reasonably be likely to occur, based on available information, but for the proposed project, and if federally funded, is or will be undertaken with funds in excess of those available for such activities in fiscal year 1993;

(4) Contains adequate provisions for tracking the actual net greenhouse gas emissions resulting from the project, and on a periodic basis, for modifying net greenhouse gas emissions reduction estimates and for comparing actual results with those originally projected;

(5) Contains adequate provisions for external verification of the actual net greenhouse gas emissions resulting from the project;

(6) Identifies any associated non-greenhouse gas environmental impacts/benefits;

(7) Provides adequate assurance that actual net greenhouse gas reduction benefits accumulated over time will not be lost or reversed;

(8) Provides for registration of the project in the national inventory established under section 1605 of the Energy Policy Act of 1992 [1]; and

(9) Provides for annual reports to the Evaluation Panel on the actual reduction achieved in net greenhouse gas emissions and on the share of such reduction attributed to each of the participants, domestic and foreign, pursuant to the terms of voluntary agreements among project participants.

B. In determining whether to include projects under the USIJI, the Evaluation Panel shall also consider:

(1) The potential for the project to lead to net changes in greenhouse gas emissions elsewhere;

(2) The potential positive and negative effects of the project apart from its effect on net greenhouse gas emissions;

(3) Whether the U.S. participants are net emitters of greenhouse gases within the United States and, if so, whether they are taking measures to reduce such net emissions; and

(4) Whether efforts are underway within the host country to ratify or accede to the United Nations

[1] With respect to information received about such projects under section 1605, the Department of Energy will coordinate with the Environmental Protection Agency to enable it to fulfill its responsibilities under the Global Climate Protection Act of 1987 and the Clean Air Act, as amended.

Framework Convention on Climate Change, to develop a national inventory and/or baseline of net greenhouse gas emissions, and whether the host country is taking measures to reduce its net emissions of greenhouse gases.

Dated: November 26, 1993.

Elinor Constable,

Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs.

[FR Doc. 93-30802 Filed 12-16-93; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice 1912]

Overseas Schools Advisory Council; Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Wednesday, January 19, 1994 at 9:30 a.m. in Conference Room 1105, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas which are assisted by the Department of State and which are attended by dependents of U.S. government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Access to the State Department is controlled and individual building passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the office of Dr. Ernest N. Mannino, Department of State, Office of Overseas Schools, SA-29, room 245, Washington, DC 20522-2902, telephone 703-875-7800, prior to January 12, 1994. Visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting. All attendees must use the C Street entrance to the building.

Dated: November 29, 1993.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 93-30732 Filed 12-16-93; 8:45 am]

BILLING CODE 4710-24-M

[Public Notice 1914]

Shipping Coordinating Committee; Subcommittee on Safety of Life At Sea and Associated Bodies, Working Group on Ship Design and Equipment and Working Group on Stability and Load Lines and on Fishing Vessels Safety; Meetings

The Working Group on Ship Design and Equipment and the Working Group Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct open meetings on January 21, 1994 in room 2415 at United States Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC. The meeting of the Working Group on Ship Design and Equipment will convene at 9:30 a.m. The meeting of the Working Group on Stability and Load Lines and on Fishing Vessels Safety will convene at 1 p.m.

The purpose of the Working Group meeting on Ship Design and Equipment will be to prepare for the 37th Session of the International Maritime Organization (IMO) Subcommittee on Ship Design and Equipment (DE) scheduled for February 14 to 18, 1994. Items of discussion will include the following: Development of the Code of Safety for High Speed Craft; matters related to mobile offshore drilling units (MODUs); maneuverability of ships and maneuvering standards; ventilation of vehicle decks during loading and unloading; fuel line failures; matters related to the prevention of oil pollution; and matters relating to ship structures, including hull stress monitoring devices, corrosion protection for ballast tanks, access to tank and ballast space structures, and introduction of a standard for ship construction into SOLAS 1974.

The purpose of the Working Group meeting on Stability and Load Lines and on Fishing Vessels Safety (SLF) is to discuss the final preparations for the 38th Session of the International Maritime Organization (IMO) SLF Subcommittee, which is scheduled for March 14-18, 1994. Items of discussion will include the following: subdivision and damage stability standards of passenger ships; harmonization of probabilistic damage stability provisions for all ship types; technical revisions to the 1966 Load Line Convention; and probabilistic oil outflow.

The IMO Subcommittees work to develop international agreements, guidelines, and standards for the marine industry. In most cases, these international agreements, guidelines, and standards form the basis for national standards/regulations and class society rules. The U.S. SOLAS Working Group supports the U.S. Representative to the IMO Subcommittee in developing the U.S. position on those issues raised at the IMO Subcommittee meetings. Because of the impact on domestic regulations through development of these international guidelines, standards, and regulations, the U.S. SOLAS Working Group serves as an excellent forum for the U.S. maritime industry to express their ideas. All shipping companies, shipyards, design firms, naval architects, marine engineers, and consultants are encouraged to send representatives to participate in the development of U.S. positions on those issues affecting your maritime industry and remain abreast of all activities ongoing within the IMO.

Members of the public may attend this meeting up to the seating capacity of the room.

For further information on these meetings, contact CDR Jim Stamm at (202) 267-2206 (DE Working Group) or Mr. Paul Cojeen at (202) 267-2988 (SLF Working Group), U.S. Coast Guard Headquarters (G-MTH), 2100 Second Street SW., Washington, DC 20593-0001.

Dated: December 3, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93-30737 Filed 12-16-93; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1913]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea and Associated Bodies, Working Group On Flag State Implementation; Meeting

The Working Group on Flag State Implementation (FSI) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on January 18, 1994, at 1 p.m. in room 2415 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

This will be the second meeting of this Working Group following establishment of a new subcommittee on Flag State Implementation at the sixty-first session of the maritime Safety Committee. The purpose of the subcommittee is to identify ways to

ensure effective and consistent global implementation of International Maritime Organization (IMO) instruments. At this meeting, the U.S. position on documents submitted for consideration at the second session of the FSI Subcommittee, scheduled for January 31 to February 4, 1994, will be discussed.

Specific items will include: Guidelines for flag states, port state control, deficiency reports, casualty statistics/investigations, and the role of the human element in maritime casualties.

Members of the public may attend this meeting up to the seating capacity of the room.

For further information on this FSI Working Group meeting, contact Commander J.M. Holmes at (202) 267-1044, U.S. Coast Guard Headquarters (G-MVI-1), 2100 Second Street, SW., Washington, DC 20593-0001.

Dated: December 3, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93-30738 Filed 12-16-93; 8:45 am]

BILLING CODE 4710-07-M

TRADE AND DEVELOPMENT AGENCY

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

AGENCY: Trade and Development Agency.

ACTION: Notice.

SUMMARY: The U.S. Trade and Development Agency (TDA) has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, as amended, (44 U.S.C. chapter 35, section 3507).

FOR FURTHER INFORMATION CONTACT: David Denny, Trade and Development Agency, State Annex 16, Room 309, Washington, DC 20523-1602, Tel. (703) 875-4357.

Copies of these submissions may be obtained from TDA's Information Officer, Carol Stillwell, SA-16, room 309, Washington DC 20523-1602, Tel. (703) 875-4357.

Persons wishing to comment on these collections of information with suggestions for ways to reduce the burdens should also contact Jefferson Hill, room 3208, NEOB, Washington, DC 20503, Tel. (202) 395-7340.

Title: An Evaluation/Audit of TDA Project #88403 Northwestern University Market Access.

Action: New Request for OMB Approval.

Respondents: Businesses or other for profit organizations.

Frequency of Response: One time only.

Estimated Annual Burden: 200 Respondents; one hour average burden per response; 200 hours total annual burden.

Needs and Uses: TDA is undertaking an evaluation/audit of the Northwestern University Market Access Project to determine if the Agency's goals were achieved. Under TDA's grant to Northwestern University's International Business Development Center (IBD), IBD arranged technical symposia, orientation visits, and other business support activities for U.S. companies interested in exporting to Korea and Taiwan. TDA has selected a contractor to survey all of the U.S. companies that actually participated in such events. The contractor and IBD estimate that there are 200 such participants.

Title: An Evaluation of TDA's projects in the Telecommunications Sector.

Action: New Request for OMB Approval.

Respondents: Businesses or other for profit organizations and foreign officials.

Frequency of Response: One time only.

Estimated Annual Burden: 60 Respondents; eight hours average burden per response; 480 hours total annual burden.

Needs and Uses: TDA is undertaking an evaluation of the projects that it has funded in the telecommunications sector to determine if the Agency's goals were achieved. TDA has funded about 75 such projects and has used a variety of mechanisms (feasibility studies, orientation visits, technical assistance, and training) to achieve its goals. TDA has selected a contractor to survey a representative sample of the U.S. companies and foreign officials that participated in the projects. The contractor and TDA estimate that the contractor will survey 60 of such participants.

Lisa DeSoto,

General Counsel.

[FR Doc. 93-30762 Filed 12-16-93; 8:45 am]

BILLING CODE 8040-01-M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Public Law 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80-2-69 established the first interim SFFL, and Order 93-9-37 established the currently effective two-month SFFL applicable through November 30, 1993.

In establishing the SFFL for the two-month period beginning December 1, 1993, we have projected non-fuel costs based on the year ended September 30, 1993 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 93-12-16 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic 1.3597
Latin America 1.3921
Pacific 1.9319
Canada 1.4129

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw, (202) 366-2439.

By the Department of Transportation: December 10, 1993.

Joseph Canny,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 93-30795 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-62-P

Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS-109, implemented by Regulation ER-1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 93-9-38, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning December 1, 1993, we have projected non-fuel costs based on the year ended September 30, 1993 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 93-12-17 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic 1.1258
Western Hemisphere 1.1320
Pacific 1.5029

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: December 10, 1993.

Joseph Canny,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–30794 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Acceptance of Noise Exposure Maps and Request for Review of Noise Compatibility Program for Hawthorne Municipal Airport, Hawthorne, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Hawthorne, California, for the Hawthorne Municipal Airport, Hawthorne, California, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Hawthorne Municipal Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before May 31, 1994.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and the start of its review of the associated noise compatibility program is December 2, 1993. The public comment period ends January 30, 1994.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, Airport Planner, Federal Aviation Administration, Planning Section, AWP–611.2, Mailing Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007, Telephone 310/297–1534.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Hawthorne Municipal Airport are in compliance with applicable requirements of part 150 effective December 2, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The city of Hawthorne submitted to the FAA on September 19, 1991 noise exposure maps, descriptions and other documentation which were produced during the Hawthorne Municipal Airport Part 150 Study conducted between 1987 and 1991. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Hawthorne, California. The specific maps under consideration are Figure 3–1 "1988 Noise Exposure Map Exposure Map", and Figure 3–2, "1993 Noise Exposure Map", in the submission. The FAA has determined that these maps for the Hawthorne Municipal Airport are in compliance with applicable requirements. This determination is effective on December 2, 1993. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Hawthorne Municipal Airport, also effective on December 2, 1993. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before May 31, 1994.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate of foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatiable land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and of the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.
Federal Aviation Administration, Western-Pacific Region, Airports Division, Room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261.
Hawthorne Municipal Airport, 12101 South Crenshaw Boulevard, Hawthorne, California 90250.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on December 2, 1993.

Robert C. Bloom,

Acting Manager, Airports Division, AWP-600, Western-Pacific Region.

[FR Doc. 93-30842 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program; Palo Alto Airport, Santa Clara County, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program for Palo Alto Airport, submitted by the Santa Clara County Department of Transportation, Santa Clara County, California, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On March 10, 1993, the FAA determined that the Noise Exposure Maps submitted by the County under part 150 were in compliance with applicable requirements. On November 12, 1993, the Acting Assistant Administrator for Airports approved the Palo Alto Airport Noise Compatibility Program. Eighteen (18) of the twenty-two (22) proposed noise abatement measures were approved, one (1) measure was partially approved, two (2) measures were disapproved, and one (1) measure had no action.

EFFECTIVE DATE: The effective date of the FAA's approval of the Noise Compatibility Program for Palo Alto Airport is November 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Pfeifer, Manager, Airports District Office, SFO-600, Federal Aviation Administration, 831 Mitten Road, Burlingame, California 94010-1303, Telephone (415) 876-2805. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Palo Alto Airport, effective November 12, 1993.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Burlingame, California.

The Santa Clara County Department of Transportation submitted to the FAA on February 26, 1992, the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 1990, through December 1991. The Palo Alto Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on March 10, 1993. Notice of this determination was published in the **Federal Register** on March 23, 1993.

The Palo Alto Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2000. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on May 18, 1993, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-two (22) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Acting Assistant Administrator for Airports effective November 12, 1993.

Outright approval was granted for eighteen (18) of the specific program measures. One (1) was approved in part with that portion controlling noise sensitive land uses being approved. Two (2) measures disapproved for purposes of Part 150. One (1) measure was a no action required at this time because it related to flight procedures. The approved measures included existing flight track policies, existing runway use program, evaluating noise-monitoring system, public information program, encouraging specific plans, consistent off airport improvement zoning and disclosure to buyers.

These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on November 12, 1993. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Santa Clara.

Issued in Hawthorne, California on December 2, 1993.

Robert C. Bloom,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 93-30843 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

Aviation Security Advisory Committee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Aviation Security Advisory Committee Meeting.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held January 20, 1994, from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-7451.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held January 20, 1994, in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC. The agenda for the meeting will include reports from the Universal Access System (UAS) Working Group and the Subcommittee on Policy, Procedures and Public Awareness, which discussed the proposed revision of regulations governing airport and air carrier security. Attendance at the January 20, 1994, meeting is open to the public but limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time.

Persons wishing to present statements or obtain information should contact the Office of the Assistant Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-7451.

Issued in Washington, DC on December 10, 1993.

Jack L. Gregory,

Acting Assistant Administrator for Civil Aviation Security.

[FR Doc. 93-30828 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

RTCA, Inc.; RTCA Board of Director's Meeting Order of Business

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix I), notice is hereby given for RTCA Board of Director's Meeting to be held December 20, starting at 2 a.m. The meeting will be held at the RTCA conference room, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Review/approve RTCA Task Force 2 Report and Executive Summary.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 13, 1993.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 93-30827 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Muskegon County Airport, Muskegon, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Muskegon County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 18, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East 8820 Beck Road, Belleville, MI 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Terry Grevious, Airport Director of the County of Muskegon, Michigan at the following address: Muskegon County Airport, 99 Sinclair Drive, Muskegon, MI 49441.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Muskegon under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East 8820 Beck Road, Belleville, Michigan 48111, (313) 487-7300. The application may be revised in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Muskegon County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990) (Public Law 101-508) part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 17, 1993 the FAA determined that the application to

impose and use the revenue from a PFC submitted by Muskegon County, Michigan was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 25, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1994.

Proposed charge expiration date: April 30, 2019.

Total estimated PFC revenue: $5,013,088.00.

Brief Description of proposed project(s): Terminal Area Improvements (New Terminal Building, Parking Lots & Entrance Road).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT.**"

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Muskegon County Airport.

Issued in Des Plaines, Illinois, on December 8, 1993.

Larry H. Ladendorf,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 93-30831 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

Notice of Passenger Facility Charge (PFC) Approvals/Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction.

SUMMARY: In Notice document 93-23364 beginning on page 50072 in the issue of Friday September 24, 1993, make the following correction: On page 50075, in the second column, under the heading Disapproved, "premier" should read "perimeter".

FOR FURTHER INFORMATION ON THIS CORRECTION CONTACT: Theda Lovell, Passenger Facility Charge Branch, (APP-530), Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267-5878.

Donna P. Taylor,

Acting Manager, Airports Financial Assistance Division.

[FR Doc. 93-30833 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waterloo Municipal Airport, Waterloo, IA

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

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 18, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Terry E. Lorenzen, Director of Aviation, Waterloo Municipal Airport, at the following address: Waterloo Municipal Airport, 2790 Airport Boulevard, Waterloo, Iowa 50703.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Waterloo, Waterloo Municipal Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ellie Anderson, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426-4728. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 2, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Waterloo, Iowa, was not substantially complete within the requirements of section 158.25 of part 158. The City of Waterloo submitted supplemental information on November 29, 1993, to complete the application. The FAA will approve or disapprove the supplemental application, in whole or in part, no later than March 29, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February, 1994.

Proposed charge expiration date: January, 1998.

Total estimated PFC revenue: $640,000.

Brief description of proposed project(s): Relocate Visual Approach Slope Indicator & Security Gate; Acquire Snow Removal Equipment; Acquire Airport Rescue & Fire Fighting Rapid Intervention Vehicle; Install Runway End Identifier Lights, Precision Approach Path Indicator Lights, and Distance-To-Go Signs; Update Airport Layout Plan; Overlay Runway 12/30; Install Guidance Signs; Update Airport Master Plan; Install Perimeter Fence; Expand Terminal and Modify to meet Americans with Disabilities Act; Install Mobility Impairment Lifting Device; Overlay Runway 18/36.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Waterloo Municipal Airport.

Issued in Kansas City, Missouri on December 3, 1993.

George A. Hendon,

Manager, Airports Division Central Region.

[FR Doc. 93-30830 Filed 12-16-93; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Youngstown-Warren Regional Airport, Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Youngstown-Warren Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 18, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East 8820 Beck Road, Belleville, Michigan, 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Larry Diemand, Airport Manager of Youngstown-Warren Regional Airport at the following address: Western Reserve Port Authority, Youngstown-Warren Regional Airport, 1453 Youngstown Kingsville Road NE., Vienna, Ohio 44473–9797.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Western Reserve Port Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Youngstown-Warren Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 23, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Western Reserve Port Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 22, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1994.

Proposed charge expiration date: August 30, 1996.

Total estimated PFC revenue: $363,597.

Brief description of proposed project(s):

1. Terminal Area Access Road Rehab. & Signage
2. Airline Terminal Rehabilitation
3. Airside Pavement Sealer
4. Security System Improvements
5. Overlay Runway 5–23
6. ADA Barrier Removal Plan
7. Electrical Vault Rehab./Wind Dir. Indicator
8. Snow Removal Equipment
9. Hold Room Secure Modifications
10. Purchase Disabled Passenger Lift & Mobile Stairs
11. Prepare PFC Application

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT.**"

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Western Reserve Port Authority.

Issued in Des Plaines, Illinois on December 8, 1993.

Larry H. Ladendorf,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–30832 Filed 12–16–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Pointe Coupee Parish, LA, West Feliciana Parish, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project, crossing the Mississippi River between Pointe Coupee and West Feliciana Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: William C. Farr, Technical Operations Manager, Federal Highway Administration, P.O. Box 3929, 750 Florida Boulevard, Baton Rouge, Louisiana 70821 or Vince Pizzolato, Environmental Engineer Administrator, Louisiana Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804–9245.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development, will prepare an environmental impact statement (EIS) on a proposal to build a new bridge and associated approaches and roadway across the Mississippi River between West Feliciana Parish and Pointe Coupee Parish. The primary purpose of this project is to improve the east-west traffic flow that is now dependent upon an existing state operated ferry. A Phase I study (Location and Feasibility Report) determined that a bridge at this location would improve access into and out of the region thus promoting economic development. The proposed action would extend from a southern terminus at LA 1/LA 10 just west of New Roads to a northern terminus at LA 10 within or just northeast of St. Francisville. Project distance, including roadway segments, ranges from approximately 9.7 miles to approximately 18.7 miles.

Based on the results of the Location and Feasibility Report, alternatives under consideration in the EIS will include (1) taking no action; (2) construction on new alignment upstream of the existing state operated ferry and; (3) an alternative alignment just downstream of the Cajun Electric Power Plant.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and Local agencies and to private organizations and citizens who have previously expressed or are known to have an interest in this proposed action. No formal scoping meeting is planned at this time; however, a public hearing will be conducted. The Draft EIS will be made available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: December 7, 1993.

William C. Farr,

FHWA Division Administrator.

[FR Doc. 93–30741 Filed 11–16–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 13, 1993.

The Department of Treasury has submitted the following public

information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1041.

Regulation ID Number: PS–102–86 Final.

Type of Review: Extension.

Title: Cooperative Housing Corporations.

Description: This regulation provides an elective alternative to the proportionate share rule for allocating interest and taxes to the tenant-stockholders of cooperative housing corporations.

Respondents: Individual or households, Farms, Businesses or other for-profit, Non-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Other (one-time election).

Estimated Total Reporting Burden: 625 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–30777 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

December 13, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Special Request: The information collection described below has been revised in response to the directives announced in the President's Memorandum For The Secretary Of The Treasury, dated August 11, 1993. The answers to the added questions on ATF F 8, Part II will enable the Bureau of Alcohol, Tobacco and Firearms (ATF) to determine the applicant's continued eligibility to remain a license. As a result of these necessary changes and the need to implement expeditious use of this form, the Department of the Treasury, on behalf of ATF, is requesting Office of Management and Budget (OMB) review and approval of the collection by December 27, 1993. All comments must be received by close of business December 20, 1993.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0043

Form Numbers: ATF F 8 (5310.11), Part II.

Type of Review: Revision.

Title: Application for Renewal of Firearms License.

Description: This form is filed by the licensee to renew a Federal firearms license. It is used to identify the applicant, locate the business premises, type of business conducted and to determine the eligibility of the applicant.

Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents: 83,000.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: Other (every three years).

Estimated Total Reporting Burden: 27,390 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

BILLING CODE 4810–31–P

Form Approved: OMB No. 1512-0043

DEPARTMENT OF THE TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

RENEWAL OF FIREARMS LICENSE

If you want to renew your firearms license, you MUST file this renewal form BEFORE the expiration date shown below. WARNING: There are criminal penalties for continuing your firearms business without renewing your license. Carefully read and follow the instructions on the back of this form.

YOU MUST COMPLETE AND SIGN THE RENEWAL QUESTIONNAIRE ON THE BACK OF THIS FORM.

DIRECT ATF CORRESPONDENCE TO: CHIEF, F & E LICENSING CENTER	LICENSE NUMBER
	EXPIRATION DATE
NAME	
TYPE OF LICENSE	
USE THIS SPACE TO CORRECT ERRORS	RENEWAL FEE
MAIL YOUR FEE (PAYABLE TO THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS) AND THIS FORM TO ATF AT:	LICENSEE

ATF F 8 (5310.11) PART II ( )

BILLING CODE 4810-31-C

Caution

Firearms Licenses Are Not Transferable. If there has been a change in the ownership or control of the firearms business, you may not use this form to obtain a renewed license. You must file a new ATF Form 7. The following are changes which would require the filing of ATF Form 7: (1) A sole proprietorship changed to a partnership or corporation; (2) a partnership changed to a corporation; (3) a partnership added or dropped one or more partners; (4) a person acquired more than 50% of the stock in an existing corporation. These examples are NOT meant to be all-inclusive.

Renewal Instructions

1. Examine the front of this form. If there are any errors, including an incorrect address, please cross out the wrong information and print the correct information in the space provided on the front of this form.
2. Fill out the questionnaire and sign it.
3. Make the check or money order payable to the Bureau of Alcohol, Tobacco and Firearms. The required fee and the mailing address are shown on the front of this form.

Renewal Questionnaire

Questions 1 through 9 apply to you and (if the licensee is a corporation, partnership or association) to any other person who has the power to direct the management and policies of your firearms business.

	Yes	No
1. Are you presently under indictment or information in any court for a crime punishable by imprisonment for a term exceeding 1 year? If yes, attach an explanatory statement showing the date of the indictment or information and the court in which it is pending. ("Information" means a formal accusation of a crime made by prosecuting attorney as distinguished from an indictment presented by a grand jury.)	☐	☐
2. Have you ever been convicted of a crime punishable by imprisonment for a term exceeding 1 year?	☐	☐
3. Are you presently appealing a conviction of a crime punishable by imprisonment for a term exceeding 1 year?	☐	☐

	Yes	No
Note: For questions 2 and 3, the actual sentence given by the judge does not matter. You must answer "yes" if the judge *could have* given a sentence of more than 1 year. A "yes" answer is not required if you have been pardoned for the crime or the conviction has been expunged, set aside or you have had your civil rights restored and under the law where the conviction occurred, you are not prohibited from receiving or possessing any firearms.		
4. Are you a fugitive from justice?	☐	☐
5. Are you an unlawful user of or addicted to marijuana or any depressant, stimulant or narcotic drug?	☐	☐
6. Have you ever been adjudicated mentally defective, mentally incompetent or been committed to a mental institution?	☐	☐
7. Have you been discharged from the Armed Forces under dishonorable conditions?	☐	☐
8. Are you an alien illegally or unlawfully in the United States?	☐	☐
9. Have you ever renounced your United States citizenship?	☐	☐

10. How many firearms have you sold during the last three years?_____.

11. What was the retail value of these sales?

_____

12. If you are sole owner of the firearms business, submit a copy of your last Schedule C submitted to the Internal Revenue Service (IRS). If you are other than a sole owner, submit a copy of your last tax return to IRS.
13. List, on a separate sheet, any changes in the responsible persons as shown on the original application or since previously notifying ATF of changes. A responsible person is any individual possessing, directly or indirectly, the power to direct or cause the direction of the management, policies, and buying and selling practices (as they pertain to firearms) of the business entity.
14. Since you obtained your license, have your State laws or local ordinances been amended to require a license, permit, or payment of a fee or tax to engage in the firearms business at your premises? If so, please provide copies of evidence that you have met these requirements.
15. Since you received your license, have any zoning ordinances been passed that would prohibit your activities as a firearms licensee at your premises? If so, please provide copies.

Under the penalties imposed by 18 U.S.C. 924, I certify that the statements contained in this application and any attached statements are true and correct to the best of my knowledge and belief.

Signature _____

Date _____

Title _____

(owner, partner or officer of a corporation)

Paperwork Reduction Act Notice—This request is in accordance with the Paperwork Reduction Act of 1980. The information collection is used to determine location and extent of operations, and to determine whether the operations will be in conformity with Federal laws and regulations. The information is requested to retain a benefit and is mandatory by statute (18 U.S.C. 923).

The estimated average burden associated with this collection is 20 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Information Programs Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, or the Office of Management and Budget, Paperwork Reduction Project (1512–0043), Washington, DC 20503.

ATF F 8 (5310.11) PART II ( )

[FR Doc. 93–30778 Filed 12–16–93; 8:45 am]

BILLING CODE 4810–31–P

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Determination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include adipic acid.

EFFECTIVE DATE: This modification is effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials

used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On December 10, 1993, the Secretary determined that adipic acid should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective July 1, 1990.

The rate of tax prescribed for adipic acid, under section 4671(b)(3), is $4.03 per ton. This is based upon a conversion factor for methane of 0.11, a conversion factor for benzene of 0.72, and a conversion factor for nitric acid of 0.63.

The petitioner is Monsanto Company, a manufacturer and exporter of this substance. No material comments were received on this petition. The following information is the basis for the determination.

HTS number: 2917.12.00.00
CAS number: 124–04–9

Adipic acid is derived from the taxable chemicals methane, benzene, and nitric acid. Adipic acid is a solid produced predominantly by oxidation of cyclohexane using air and nitric acid in a two-step process. The cyclohexane is produced by the reaction of hydrogen (derived from methane in natural gas) and benzene.

The stoichiometric material consumption formula for adipic acid is:

$3\ CH_4$ (methane)+1.66 H_2O (water)+2 C_6H_6 (benzene)+1.5 O_2(oxygen)+4.66 HNO_3 (nitric acid) → 2 $C_6H_{10}O_4$ (adipic acid)+6 H_2 (hydrogen)+3 CO_2 (carbon dioxide)+4.66 NO (nitric oxide)

Adipic acid has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 86.4 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–30746 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Notice of Determination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include butanol and propanol.

EFFECTIVE DATE: This modification is effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On December 10, 1993, the Secretary determined that butanol and propanol should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective October 1, 1990.

The rate of tax prescribed for butanol, under section 4671(b)(3), is $3.31 per ton. This is based upon a conversion factor for propylene of 0.6746 and a conversion factor for methane of 0.0076.

The rate of tax prescribed for propanol, under section 4671(b)(3), is $2.58 per ton. This is based upon a conversion factor for ethylene of 0.5251 and a conversion factor for methane of 0.0076.

The petitioner is Hoechst Celanese, a manufacturer and exporter of these substances. No material comments were received on these petitions. The following information is the basis for the determinations.

Butanol

HTS number: 2905.13.00.00
CAS number: 71–36–3

Butanol is derived from the taxable chemicals propylene and methane. Butanol is a liquid produced predominantly by oxo synthesis of propylene with subsequent hydrogenation.

The stoichiometric material consumption formula for butanol is:

C_3H_6 (propylene)+CH_4 (methane)+H_2O (water) → $C_4H_{10}O$ (butanol)+H_2 (hydrogen)

Butanol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 76.3 percent by weight of the materials used in its production.

Propanol

HTS number: 2905.12.00.10
CAS number: 71–23–8

Propanol is derived from the taxable chemicals ethylene and methane. Propanol is a liquid produced predominantly by oxo synthesis of ethylene with subsequent hydrogenation.

The stoichiometric material consumption formula for propanol is:

C_2H_4 (ethylene)+CH_4 (methane)+H_2O (water) → C_3H_8O (propanol)+H_2 (hydrogen)

Propanol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 70.9 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–30745 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Determination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include pentaerythritol, trimethylolpropane, and 1,3-butylene glycol.

EFFECTIVE DATE: This modification is effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On December 10, 1993, the Secretary determined that pentaerythritol, trimethylolpropane, and 1,3-butylene glycol should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective July 1, 1990.

The rate of tax prescribed for pentaerythritol, under section 4671(b)(3), is $4.66 per ton. This is based upon a conversion factor for ethylene of 0.2877, a conversion factor for methane of 0.9120, and a conversion factor for sodium hydroxide of 0.4700.

The rate of tax prescribed for trimethylolpropane, under section 4671(b)(3), is $4.45 per ton. This is based upon a conversion factor for propylene of 0.4527, a conversion factor for methane of 0.6214, and a conversion factor for sodium hydroxide of 0.3900.

The rate of tax prescribed for 1,3-butylene glycol, under section 4671(b)(3), is $4.89 per ton. This is based upon a conversion factor for ethylene of 0.9298 and a conversion factor for methane of 0.1055.

The petitioner is Hoechst Celanese, a manufacturer and exporter of these substances. No material comments were received on these petitions. The following information is the basis for the determinations.

Pentaerythritol

HTS number: 2905.42.00.00
CAS number: 115–77–5

Pentaerythritol is derived from the taxable chemicals ethylene, methane, and sodium hydroxide. Pentaerythritol is a solid produced predominantly by the alkaline catalyzed "crossed-cannizzaro" reaction between acetaldehyde and formaldehyde. Most acetaldehyde is produced by direct oxidation of ethylene. All formaldehyde is produced by catalytic vapor phase oxidation of methanol. Both carbon monoxide and methanol are produced from methane.

The stoichiometric material consumption formula for pentaerythritol is:

C_2H_4 (ethylene)+4 CH_4 (methane)+2.5 O_2 (oxygen)+NaOH (sodium hydroxide) → 4 H_2 (hydrogen)+HCOONa (sodium formate)+$C_5H_{12}O_4$ (pentaerythritol)

Pentaerythritol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 62.2 percent by weight of the materials used in its production.

Trimethylolpropane

HTS number: 2905.41.00.00
CAS number: 77–99–6

Trimethylolpropane is derived from the taxable chemicals propylene, methane, and sodium hydroxide. Trimethylolpropane is a solid produced predominantly by the mixed aldolization of formaldehyde with n-butyraldehyde. Formaldehyde is produced by catalytic vapor phase oxidation of methanol. Both carbon monoxide and methanol are produced from methane. The most widely used manufacturing technique for butyraldehyde is the process in which propylene is combined with carbon monoxide and hydrogen.

The stoichiometric material consumption formula for trimethylolpropane is:

C_3H_6 (propylene)+4 CH_4 (methane)+NaOH (sodium hydroxide)+1.5 O_2 (oxygen)+H_2O (water) → HCOONa (sodium formate)+5 H_2 (hydrogen)+$C_6H_{14}O_3$ (trimethylolpropane)

Trimethylolpropane has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 68.8 percent by weight of the materials used in its production.

1,3-butylene glycol

HTS number: 2905.39.10.00
CAS number: 107–88–0

1,3-butylene glycol is derived from the taxable chemicals ethylene and methane. 1,3-butylene glycol is a liquid produced predominantly by catalytic hydrogenation of acetaldol. Acetaldol is a condensation product of acetaldehyde. Acetaldehyde is produced by oxidation of ethylene. Hydrogen is obtained by steam reforming methane.

The stoichiometric material consumption formula for 1,3-butylene glycol is:

2 C_2H_4 (ethylene)+CH_4 (methane)+H_2O (water)+O_2 (oxygen) → 2 H_2 (hydrogen)+CO (carbon monoxide)+$C_4H_{10}O_2$ (1,3-butylene glycol)

1,3-butylene glycol has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 59 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–30743 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of petitions requesting that poly (69/31 ethylene/cyclohexylenedimethylene terephthalate), poly (96.5/3.5 ethylene/cyclohexylenedimethylene terephthalate), and poly (98.5/1.5 ethylene/cyclohexylenedimethylene terephthalate) be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by February 15, 1994. Any modification of the list of taxable substances based upon these petitions would be effective October 1, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on October 25,

1989. The petitioner is Eastman Chemicals Division, Eastman Kodak Company, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Poly (69/31 ethylene/ cyclohexylenedimethylene terephthalate)

HTS number: 3907.60.00.90
CAS number: 26100–86–7

This substance is derived from the taxable chemicals ethylene and xylene. Poly (69/31 ethylene/ cyclohexylenedimethylene terephthalate), a solid, is produced predominantly by reacting dimethyl terephthalate with ethylene glycol and cyclohexanedimethanol. Dimethyl terephthalate is produced by the air oxidation of p-xylene to yield terephthalic acid, and the acid is subsequently esterified to the dimethyl ester with methanol. Ethylene glycol is produced via reaction of ethylene with oxygen and water, and cyclohexanedimethanol is produced via the hydrogenation of dimethyl terephthalate.

The stoichiometric material consumption formula for this substance is:

131 C_8H_{10} (xylene)+70 C_2H_4 (ethylene)+428 O_2 (oxygen)+70 H_2O (water)+217 H_2 (hydrogen) → $C_2H_6O_2(C_{10}H_8O_4)_{69}(C_{16}H_{18}O_4)_{31}$ (poly (69/31 ethylene/ cyclohexylenedimethylene terephthalate))+524 H_2O (water)

According to the petition, taxable chemicals constitute 50.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.89 per ton before January 1, 1992, and $3.54 per ton for imported poly (69/31 ethylene/ cyclohexylenedimethylene terephthalate) first sold or used after December 31, 1991. This is based upon a conversion factor for xylene of 0.6372 and a conversion factor for ethylene of 0.0900.

Poly (96.5/3.5 ethylene/ cyclohexylenedimethylene terephthalate)

HTS number: 3907.60.00.90
CAS number: 26100–86–7

This substance is derived from the taxable chemicals ethylene and xylene. Poly (96.5/3.5 ethylene/ cyclohexylenedimethylene terephthalate), a solid, is produced predominantly by reacting dimethyl terephthalate with ethylene glycol and cyclohexanedimethanol. Dimethyl terephthalate is produced by the air oxidation of p-xylene to yield terephthalic acid, and the acid is subsequently esterified to the dimethyl ester with methanol. Ethylene glycol is produced via reaction of ethylene with oxygen and water, and cyclohexanedimethanol is produced via the hydrogenation of dimethyl terephthalate.

The stoichiometric material consumption formula for this substance is:

103.5 C_8H_{10} (xylene)+97.5 C_2H_4 (ethylene)+359.25 O_2 (oxygen)+97.5 H_2O (water)+24.5 H_2 (hydrogen) → $C_2H_6O_2(C_{10}H_8O_4)_{96.5}(C_{16}H_{18}O_4)_{3.5}$ (poly (96.5/3.5 ethylene/ cyclohexylenedimethylene terephthalate))+414 H_2O (water)

According to the petition, taxable chemicals constitute 50.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.36 per ton before January 1, 1992, and $3.41 per ton for imported poly (96.5/3.5 ethylene/ cyclohexylenedimethylene terephthalate) first sold or used after December 31, 1991. This is based upon a conversion factor for xylene of 0.5616 and a conversion factor for ethylene of 0.1398.

Poly (98.5/1.5 ethylene/ cyclohexylenedimethylene terephthalate)

HTS number: 3907.60.00.90
CAS number: 26100–86–7

This substance is derived from the taxable chemicals ethylene and xylene. Poly (98.5/1.5 ethylene/ cyclohexylenedimethylene terephthalate), a solid, is produced predominantly by reacting dimethyl terephthalate with ethylene glycol and cyclohexanedimethanol. Dimethyl terephthalate is produced by the air oxidation of p-xylene to yield terephthalic acid, and the acid is subsequently esterified to the dimethyl ester with methanol. Ethylene glycol is produced via reaction of ethylene with oxygen and water, and cyclohexanedimethanol is produced via the hydrogenation of dimethyl terephthalate.

The stoichiometric material consumption formula for this substance is:

101.5 C_8H_{10} (xylene)+99.5 C_2H_4 (ethylene)+354.25 O_2 (oxygen)+99.5 H_2O (water)+10.5 H_2 (hydrogen) → $C_2H_6O_2(C_{10}H_8O_4)_{98.5}(C_{16}H_{18}O_4)_{1.5}$ (poly (98.5/1.5 ethylene/ cyclohexylenedimethylene terephthalate))+406 H_2O (water)

According to the petition, taxable chemicals constitute 50.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.32 per ton before January 1, 1992, and $3.40 per ton for imported poly (98.5/1.5 ethylene/ cyclohexylenedimethylene terephthalate) first sold or used after December 31, 1991. This is based upon a conversion factor for xylene of 0.5554 and a conversion factor for ethylene of 0.1439.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–30748 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Notice of Determination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include terephthalic acid and polybutene.

EFFECTIVE DATE: This modification is effective January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On December 10, 1993, the Secretary determined that terephthalic acid and polybutene should be added to the list

of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective January 1, 1991.

The rate of tax prescribed for terephthalic acid, under section 4671(b)(3), is $6.47 per ton before January 1, 1992, and $3.11 per ton for imported terephthalic acid first sold or used after December 31, 1991. This is based upon a conversion factor for xylene of 0.639.

The rate of tax prescribed for polybutene, under section 4671(b)(3), is $4.87 per ton. This is based upon a conversion factor for butylene of 1.00.

The petitioner is Amoco Corporation, a manufacturer and exporter of these substances. No material comments were received on these petitions. The following information is the basis for the determinations.

Terephthalic acid

HTS number: 2917.36.00.00
CAS number: 100–21–0

Terephthalic acid is derived from the taxable chemical xylene. Terephthalic acid is a solid produced predominantly by air oxidation of p-xylene.

The stoichiometric material consumption formula for terephthalic acid is:

C_8H_{10} (xylene)+3 O_2 (oxygen) → $C_8H_6O_4$ (terephthalic acid)+2 H_2O (water)

Terephthalic acid has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 52.4 percent by weight of the materials used in its production.

Polybutene

HTS number: 3902.20.50.00
CAS number: 9003–28–5 and 25249–62–1

Polybutene is derived from the taxable chemical butylene. Polybutene is a polymer produced predominantly by the polymerization of isobutylene.

The stoichiometric material consumption formula for polybutene is:

n(C_4H_8) (isobutylene) → $(C_4H_8)_n$ (polyisobutylene)

Polybutene has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 100 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–30744 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of petitions requesting that 2,2,4-trimethyl-1,3-pentanediol diisobutyrate and 2,2,4-trimethyl-1,3-pentanediol diisobutyrate and 2,2,4-trimethyl-1,3-pentanediol monoisobutyrate be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by February 15, 1994. Any modification of the list of taxable substances based upon these petitions would be effective April 1, 1991.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on May 16, 1990. The petitioner is Eastman Chemicals Division, Eastman Kodak Company, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

2,2,4-trimethyl-1,3-pentanediol diisobutyrate

HTS number: 2915.90.00.00
CAS number: 6846–50–0

This substance is derived from the taxable chemicals methane and propylene. 2,2,4-trimethyl-1,3-pentanediol diisobutyrate is a liquid produced predominantly by condensation of isobutyraldehyde.

The stoichiometric material consumption formula for this substance is:

6 CH_4 (methane)+6 C_3H_6 (propylene)+6 O_2 (oxygen) → $C_{16}H_{30}O_4$ (2,2,4-trimethyl-1,3-pentanediol diisobutyrate)+$C_8H_{18}O_2$ (2,2,4-trimethyl-1,3-pentanediol)+6 H_2O (water)

According to the petition, taxable chemicals constitute 64.4 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.44 per ton. This is based upon a conversion factor for methane of 0.3360 and a conversion factor for propylene of 0.8815.

2,2,4-trimethyl-1,3-pentanediol monoisobutyrate

HTS number: 2915.60.00.00
CAS number: 25265–77–4

This substance is derived from the taxable chemicals methane and propylene. 2,2,4-trimethyl-1,3-pentanediol monoisobutyrate is a liquid produced predominantly by condensation of isobutyraldehyde.

The stoichiometric material consumption formula for this substance is:

3 CH_4 (methane)+3 C_3H_6 (propylene)+3 O_2 (oxygen) → $C_3H_7CHOHC(CH_3)_2CH_2OOCC_3H_7$ (2,2,4-trimethyl-1,3-pentanediol monoisobutyrate)+3 H_2O (water)

According to the petition, taxable chemicals constitute 64.4 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.60 per ton. This is based upon a conversion factor for methane of 0.2224 and a conversion factor for propylene of 0.5836.

Dale D. Goode.

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–30747 Filed 12–16–93; 8:45 am]

BILLING CODE 4830–01–U

Sunshine Act Meetings

Federal Register
Vol. 58, No. 241
Friday, December 17, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:51 p.m. on Tuesday, December 14, 1993, the Corporation's Board of Directors determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: CrossLand Savings, FSB New York City (Brooklyn), New York, Case No. 505-07001-93-BOD

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: December 15, 1993.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Assistant Executive Secretary.

[FR Doc. 93-30964 Filed 12-15-93; 2:41 pm]

BILLING CODE 6714-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, December 22, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 15, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-30963 Filed 12-15-93; 2:40 pm]

BILLING CODE 6210-01-P

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: December 28, 1993 at 10:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Invs. Nos. 731-TA-675-676 (Preliminary) (Saccharin from China and Korea)—briefing and vote.
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205-2000.

Issued: December 15, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-30987 Filed 12-15-93; 2:42 pm]

BILLING CODE 7020-02-P

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on Friday, January 8, 1994. The time the Board of Directors will convene will be announced in a subsequent notice.

PLACE: The Legal Services Corporation, 750 First Street, NE., The Board Room, 11th Floor, Washington, DC 20002, (202) 336-8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED: Among other things, the Board of Directors will consider the following matters.

1. Consideration of Amendment to Section 1601.15 of the Corporation's Regulations to Delete the Requirement that the Annual Meeting of the Board of Directors be Held on the Last Friday of January, and Provide Only that the Annual Meeting be Held in January of Each Year.
2. Consideration of Resolution to Confer on Certain Board Committees Oversight Responsibility for the Offices of the Corporation.
3. Consideration of Resolution to Confer on Certain Board Committees Jurisdiction Over Enumerated Corporate Business and Affairs.

Any other matters to be considered by the Board of Directors on January 8, 1994 will be announced at a later date.

CONTACT PERSON: Patricia Batie, (202) 336-8800.

Date Issued: December 14, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93-30924 Filed 12-15-93; 8:45 am]

BILLING CODE 7050-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of December 20, 1993.

An open meeting will be held on Wednesday, December 22, 1993, at 10:00 a.m., in room 1C30. A closed meeting will be held on Thursday, December 23, 1993, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and

(10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, December 22, 1993, at 10:00 a.m., will be:

Consideration of whether to issue a proposed rule change submitted by the National Association of Securities Dealers (NASD) that provides for the following modifications to its Small Order Execution System ("SOES") on a one-year pilot basis: First, the NASD will lower the maximum size of order that can be entered in SOES from 1,000 shares to 500 shares. Second, the NASD will lower the minimum exposure limit for unpreferenced orders from 5,000 shares for the top tier of Nasdaq National Market System securities to 1,000 shares. Third, the NASD is providing an automated quotation update capability for market makers that will enable them to have their quotations updated automatically after they effect an execution on SOES. Market makers electing to use the update function will be subject to a minimum exposure limit of only 500 shares. Fourth, the NASD will prohibit the use of SOES to effect short sales. For further information, please contact Mark Tellini at (202) 272–3103.

The subject matter of the closed meeting scheduled for Thursday, December 23, 1993, at 10:00 a.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceeding of an enforcement nature.

Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Carrie Dwyer at (202) 272–2000.

Dated: December 14, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31002 Filed 12–15–93; 3:55 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 58, No. 241
Friday, December 17, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 317

[Docket No. 91-006F-C]

RIN 0583-AB34

Nutrition Labeling of Meat and Poultry Products; Corrections

Correction

In rule document 93-19886 beginning on page 43787 in the issue of Wednesday, August 18, 1993 make the following correction:

§ 317.380 [Corrected]

On page 43788, in the third column, in § 317.380, in amendatory instruction 22., in the last line, "§ 137.360." should read "§ 317.360."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Announcement and Proposed Strategic Directions for Cooperative Agreements for Acquired Immunodeficiency Syndrome (AIDS) Regional Education and Training Centers Program for Fiscal Year 1994

Correction

In notice document 93-28327 beginning on page 60860 in the issue of Thursday, November 18, 1993, make the following correction:

On page 60861, in the third column, in the last paragraph, in the second line from the bottom, after "the", insert "Federal funds provided must be expended to provide education to".

BILLING CODE 1505-01-D

federal register

Friday
December 17, 1993

Part II

Environmental Protection Agency

40 CFR Parts 63 and 430

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category; National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 430

[FRL-4802-4]

RIN 2060-AD03 and 2040-AB53

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category; National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules.

SUMMARY: These proposed regulations would limit the discharge of pollutants into navigable waters of the United States and the introduction of pollutants into publicly owned treatment works by existing and new facilities that produce pulp, paper, and paperboard. These proposed regulations would also limit the emission of hazardous air pollutants by existing and new facilities in the pulp and paper production source category.

The purpose of this action is to reduce the discharge of water pollutants and emissions of hazardous air pollutants from the pulp, paper, and paperboard industry, not just with end-of-pipe and add-on controls, but also by eliminating or reducing the formation of these pollutants.

DATES: Comments on the proposed rules must be received by March 17, 1993 at the following address. For information on public hearings, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Send comments in triplicate on this proposal to Ms. Marion Thompson, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW., Washington, DC 20460. The public record supporting the proposed effluent limitations guidelines and standards is in the Water Docket located in the basement of the EPA Headquarters building, room L102, 401 M Street SW., Washington, DC 20460, telephone number (202) 260-3027. The public record supporting the proposed national emission standards is in the Air Docket located in room M1500 of the EPA Headquarters building at the address listed above, telephone number (202) 260-7548. The Docket staff requests that interested parties call for an appointment before visiting the dockets. The EPA regulations at 40 CFR part 2 provide that a reasonable fee may be charged for copying. For further information about the docket, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Background documents supporting the proposed regulations are described in the "Background Documents" section later in this action. Contact Ms. Marion Thompson at the address listed above for any questions concerning availability of documents. Many of the documents are also available from the Office of Water Resource Center, RC-4100, at the U.S. EPA, Washington, DC address shown above; telephone (202) 260-7786 for the voice mail publication request line. For additional technical information on the water regulation, contact Mr. Donald Anderson, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street, SW., Washington, DC 20460, or telephone (202) 260-7137. For additional technical information on the air regulation, contact Ms. Penny Lassiter or Mr. Stephen Shedd, Office of Air Quality Planning and Standards (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone Ms. Penny Lassiter at (919) 541-5396 or Mr. Stephen Shedd at (919) 541-5397. The contacts for economic information on the proposed regulations are Mr. Scott Mathias at the address in Research Triangle Park, NC listed above, telephone (919) 541-5310, and Ms. Debra Nicoll, at the Washington, DC address listed above, telephone (202) 260-5386.

SUPPLEMENTARY INFORMATION:

Public Hearings

EPA will conduct a public hearing on the effluent pretreatment standards included in the proposed rule. In addition, if requested, a public hearing will be held concerning the proposed emission standards for hazardous air pollutants. One or more public meetings on these integrated regulations as a whole may also be held during the comment period. The date and location of any public hearings or meetings will be announced in the **Federal Register.**

Docket

EPA notes that many documents in the record supporting these proposed rules have been claimed as confidential business information and, therefore, are not included in the record that is available to the public in the Air and Water Dockets. To support the rulemaking, EPA is presenting certain information in aggregated form or is masking mill identities to preserve confidentiality claims. Further, the Agency has withheld from disclosure some data not claimed as confidential business information because release of this information could indirectly reveal information claimed to be confidential.

Some mill-specific data, which have been claimed as confidential business information, are available to the company that submitted the information. To ensure that all CBI is protected in accordance with EPA regulations, any requests for company-specific data should be submitted on company letterhead and signed by a responsible official authorized to receive such data. The request must list the specific data requested and include the following statement, "I certify that EPA is authorized to transfer confidential business information submitted by my company, and that I am authorized to receive it."

Overview

The preamble describes the definitions, acronyms, and abbreviations used in this notice; the background documents that support these proposed regulations; the legal authority of these rules; a summary of the proposal; background information; and the technical and economic methodologies used by the Agency to develop these regulations. This preamble also solicits comment and data on specific areas of interest.

Organization of This Document

I. Definitions, Acronyms, and Abbreviations
II. Background Documents
III. Legal Authority
IV. Summary of the Proposed Regulations
  A. Effluent Limitations Guidelines and Standards
  B. National Emission Standards for Hazardous Air Pollutants
  C. Scope of Today's Proposed Rules
V. Background
  A. Clean Water Act
  B. Clean Air Act
  C. Sludge Regulatory Development
  D. Pollution Prevention Act
  E. Summary of Environmental Studies
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VI. Integrated Regulatory Development Under the Clean Water Act and the Clean Air Act
  A.Background
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VII. Description of the Industry
  A. Pulp and Paper Manufacturing Facilities
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VIII. Summary of Data Gathering Efforts
  A. Wastewater Sampling Program
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Manufacturing Facilities
C. Data Gathering Activities for Air Emission Standards
IX. Development of Effluent Limitations Guidelines and Standards
A. Industry Subcategorization
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C. Selection of Pollutant Parameters
D. Available Technologies
E. Rationale for Selection of Proposed Regulations
F. Determination of Long-Term Averages, Variability Factors, and Limitations
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X. Development of Air Emission Standards
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E. Selection of Basis of Proposed Standards for Existing Sources
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G. Selection of the Format for the Proposed Standards
H. Selection of Numerical Values in Emission Standards
I. Selection of Continuous Monitoring Requirements
J. Selection of Reporting and Recordkeeping Requirements
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N. Relationship to Operating Permit Program
XI. Impacts of Integrated Regulatory Alternative
A. Integrated Regulatory Alternative
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C. Sludge, Energy, and Other Environmental Impacts
XII. Administrative Requirements
A. Changes in Format and Name
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C. Solicitation of Comment on an Industry Proposal
D. Solicitation of Comment on an Environmental Group Petition

I. Definitions, Acronyms, and Abbreviations

5-mill study—Cooperative U.S. EPA/paper industry study conducted during 1985 and 1986 at five bleached kraft pulp and paper mills for the purpose of determining the process sources of CDDs and CDFs. The study results were published in 1988 (U.S. Cooperative/Paper Industry Screening Study, EPA-440/1-88-025, March 1988).

104-mill study—Study of 104 chemical pulp mills with chlorine bleaching operations conducted during 1988 and 1989 for the purpose of determining levels of 2,3,7,8-TCDD and 2,3,7,8-TCDF in bleached pulps, treated wastewater effluents and wastewater treatment sludges. The study was conducted by the paper industry under direction by NCASI in accordance with EPA-approved protocols.

1990 Census—The 1990 National Census of Pulp, Paper and Paperboard Manufacturing Facilities. A questionnaire submitted by EPA to all facilities in the pulp, paper, and paperboard industry in October 1990 to gather technical and financial information.

Acid filtrate—Process wastewater from the acid bleach plant stages.

Administrator—The Administrator of the U.S. Environmental Protection Agency.

AFPA—American Forest and Paper Association (formerly the American Paper Institute).

Agency—The U.S. Environmental Protection Agency.

Air dried pulp—For purposes of the effluent guidelines, an unbleached pulp sample with a moisture content of approximately 10 percent by weight. For purposes of the NESHAP, a pulp sample with a moisture content of less than or equal to 10 percent by weight. For purposes of the NESHAP, pulp samples for the pulping component shall be unbleached pulp and for the bleaching component shall be bleached pulp.

Alkaline filtrate—Process wastewater from the pulp washing operations following alkaline bleach plant stages. See also caustic filtrate.

Annual average—The mean concentration, mass loading or production-normalized mass loading of a pollutant over a period of 365 consecutive days (or such other period of time determined by the permitting authority to be sufficiently long to encompass expected variability of the concentration, mass loading or production-normalized mass loading at the relevant point of measurement).

AOX—Adsorbable organic halides. A bulk parameter which measures the total chlorinated organic matter in wastewater.

API—American Paper Institute (now the American Forest and Paper Association).

Average monthly discharge limitation—The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during the calendar month divided by the number of "daily discharges" measured during the month.

BAT—The best available technology economically achievable, as described in sec. 304(b)(2) of the CWA.

BCT—The best conventional pollutant control technology, as described in sec. 304(b)(4) of the CWA.

BID—Background Information Document. Documentation of the technical background information and analyses supporting the proposed national emission standards for hazardous air pollutants.

Black liquor—Pulping liquor from the digester to the point of its incineration in the recovery furnace of a sulfate (kraft) recovery process. It contains dissolved organic wood substances and residual active alkali compounds from the pulping process.

Bleach plant—All process equipment beginning with the first application of bleaching agents (e.g., chlorine, chlorine dioxide, ozone, sodium or calcium hypochlorite, peroxide), each subsequent extraction stage, and each subsequent stage where bleaching agents are applied to the pulp. A limited number of mills produce specialty grades of pulp using hydrolysis or extraction stages prior to the first application of bleaching agents. The bleach plant includes those pulp pretreatment stages. Oxygen delignification prior to the application of bleaching agents is not part of the bleach plant.

Bleach plant effluent—For purposes of the effluent guidelines, the total discharge of process wastewaters from the bleach plant from each physical bleach line operated at the mill, comprising separate acid and alkaline filtrates or the combination thereof.

Bleach sequence—Sequence of bleaching chemical additions in the bleach plant.

Bleaching—The process of further delignifying and whitening pulp by chemically treating it to alter the coloring matter and to impart a higher brightness.

Bleaching component—For purposes of the NESHAP, all process equipment beginning with the first application to unbleached pulp of chlorine or chlorine-containing compounds up to

and including the final bleaching stage. Treatment of pulp with ozone, oxygen, or peroxide may occur before or after the addition of chlorine. If treatment of pulp occurs after this chlorine addition, then these stages are included in the bleaching component.

BMP or BMPs—Best management practices, as described in section 304(e) of the CWA.

BOD—Biochemical oxygen demand. A measure of biochemical decomposition of organic matter in a water sample. It is determined by measuring the dissolved oxygen consumed by microorganisms to oxidize the organic contaminants in a water sample under standard laboratory conditions of five days and 70°C. BOD is not related to the oxygen requirements in chemical combustion.

Boiler—Any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator.

BPT—The best practicable control technology currently available, as described in sec. 304(b)(1) of the CWA.

Brightness—As commonly used in the paper industry, the reflectivity of a sheet of pulp, paper, or paperboard for specified light measured under standardized conditions.

Broke—Partly or completely manufactured paper that does not leave the machine room as salable paper or paperboard; also, paper damaged in finishing operations such as rewinding rolls, cutting and trimming.

Brownstock—Pulp, usually kraft or groundwood, not yet bleached or treated other than in the pulping process.

CAA—Clean Air Act. The Air Pollution Prevention and Control Act (42 U.S.C. 7401 *et seq.*), as amended, *inter alia*, by the Clean Air Act Amendments of 1990 (Pub. L. 101–549, 104 Stat. 2399).

Caustic filtrate—Process wastewater from the caustic bleach plant stages. See also alkaline filtrates.

Chemical recovery—The recovery of chemicals from spent pulping liquor after it is used to cook wood in the digester.

Clarifier—A treatment unit designed to remove suspended materials from wastewater—typically by sedimentation.

Closed vent system—A system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission point to a control device.

COD—Chemical oxygen demand. A bulk parameter that measures the oxygen-consuming capacity of refractory organic and inorganic matter present in water or wastewater. COD is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test.

Combustion device—An individual unit of equipment, including but not limited to, an incinerator, lime kiln, recovery furnace, or boiler, used for the thermal oxidation of organic hazardous air pollutant vapors.

Condensate—Any material that has condensed from a gaseous phase into a liquid phase.

Construction—When used in connection with CAA obligations, construction is the fabrication (on-site), erection, or installation of a stationary source, group of stationary sources, or portion of a stationary source that is or may be subject to a standard, limitation, prohibition, or other federally enforceable requirement established by the Administrator (or State with an approved permit program) pursuant to section 112 of the Clean Air Act.

Container—Any portable unit in which wastewater or HAPs removed from wastewater are stored, transported, treated, or otherwise handled. Examples of containers are drums, barrels, tank trucks, barges, dumpsters, tank cars, dump trucks, and ships.

Continuous discharge—Discharge that occurs without interruption throughout the operating hours of the facility.

Controlled-release discharge—A discharge that occurs at a rate that is intentionally varied to accommodate fluctuations in receiving stream assimilative capacity or for other reasons.

Conventional pollutants—The pollutants identified in sec. 304(a)(4) of the CWA and the regulations thereunder (biochemical oxygen demand (BOD_5), total suspended solids (TSS), oil and grease, fecal coliform and pH).

Converting mill—A facility that purchases paper for converting into marketplace products (e.g., boxes, paper plates, etc.).

CWA—Clean Water Act. The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended, *inter alia*, by the Clean Water Act of 1977 (Pub. L. 95–217) and the Water Quality Act of 1987 (Pub. L. 100–4).

Daily discharge—The discharge of a pollutant measured during any calendar day or any 24-hour period that reasonably represents a calendar day. For pollutants with limitations expressed as mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Decker—A piece of equipment used to thicken or reduce the water content of the pulp slurry after the pulp washer system.

Delignification—The process of degrading and dissolving away lignin and/or hemicellulose.

Digester—A pressure vessel used to chemically treat chips and other cellulosic fibrous materials such as straw, bagasse, rags, etc., under elevated temperature and pressure in order to separate fibers from each other.

Digester system—Each continuous digester or each set of batch digesters used for the chemical treatment of wood, including associated flash tank(s), blow tank(s), chip steamer(s), condenser(s), and pre-hydrolysis unit(s).

Direct discharger—A facility that discharges or may discharge treated or untreated process wastewaters, non-contact cooling waters, or non-process wastewaters (including stormwater runoff) into waters of the United States.

ECF—Elemental chlorine-free. Any process for bleaching pulps in the absence of elemental chlorine.

Effluent—Wastewater discharges.

Effluent limitation—Any restriction, including schedules of compliance, established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean.

Emission—Passage of air pollutants into the atmosphere via a gas stream or other means.

Emission point—Any location within a source from which air pollutants are emitted, including an individual process vent, opening within a wastewater collection and treatment system, or an open piece of process equipment.

EOP effluent—Final mill effluent discharged to waters of the United States or to a POTW.

EOP—(End-of-pipe) treatment—Treatment facilities or systems used to treat process wastewaters, non-process wastewaters and/or stormwaters after the wastewaters have left the process area of the facility and prior to discharge. End-of-pipe treatment generally does not include facilities or systems where products or by-products are separated from process wastewaters and returned to the process or directed to air emission control devices (e.g., pulping liquor spill prevention and control systems, foul condensate stripping systems, paper machine save-alls).

EPA—The U.S. Environmental Protection Agency.

Fines—Very small fibers and fiber fragments that readily pass through a filter wire cloth.

Flow indicator—A device that indicates whether gas flow is present in a closed vent system.

General Provisions—General Provisions for national emission standards for hazardous air pollutants and other regulatory requirements pursuant to section 112 of the Clean Air Act as amended November 15, 1990. The General Provisions, to be located in subpart A of part 63 of title 40 of the Code of Federal Regulations, will codify procedures and criteria to implement emission standards for stationary sources that emit (or have the potential to emit) one or more of the 189 chemicals listed as hazardous air pollutants in section 112(b) of the Clean Air Act as amended in 1990. EPA published the proposed NESHAP General Provisions for comment in the **Federal Register** on August 11, 1993 (58 FR 42760). Also, the General Provisions for the effluent limitations guidelines and standards proposed today, to be located at 40 CFR part 430.

Green Liquor—Liquor made by dissolving the sodium and sulfur-containing smelt from the kraft recovery process prior to causticizing.

Groundwood—Pulp and paper made up of mechanically separated fibers produced by the grinding of pulpwood.

HAP—Hazardous Air Pollutant. Any of the 189 chemicals listed under section 112(b) of the Clean Air Act.

Hardwood—Pulpwood from broad-leaved dicotyledonous deciduous trees.

Incinerator—An enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas.

Indirect discharger—A facility that discharges or may discharge wastewaters into a publicly owned treatment works or a treatment works not owned by the discharging facility.

Individual drain system—The system used to convey process wastewater streams from the pulping or bleaching process equipment or tank, or process wastewater collection and treatment system unit, to a receiving process wastewater collection and treatment system unit. The term includes all process drains and junction boxes, together with their associated sewer lines and other junction boxes, manholes, sumps and lift stations, down to the receiving process wastewater treatment system. The individual drain system shall be designed to segregate the vapors within the system from other drain systems. A segregated stormwater sewer system, which is a drain and collection system designed and operated for the sole purpose of collecting rainfall-runoff at a facility, and which is segregated from all other individual drain systems, is excluded from this definition.

Industrial POTW—Any POTW receiving more than 50 percent of its influent flow or more than 50 percent BOD_5 or TSS wastewater load from a facility subject to these regulations.

Integrated mill—A mill that produces its own pulp and may use none, some, or all of that pulp (often in combination with purchased pulp) to produce paper or paperboard products.

Integrated regulatory alternative—A set of control options comprising the technology bases for effluent limitations guidelines and national emission standards.

ISO—Unit of brightness of the International Organization of Standardization.

IU—Industrial User. Synonym for "Indirect Discharger."

Junction box—A manhole access point to a wastewater sewer system or a lift station.

Knotter—A piece of equipment where knots or pieces of uncooked wood are removed after the digester system and prior to the pulp washer system. Equipment used to remove oversized particles from pulp following the pulp washer are considered screens.

Kraft process—See Sulfate process.

Lime kiln—An enclosed combustion device used to calcine lime mud, which consists primarily of calcium carbonate, into calcium oxide, which is known as quicklime and is used again with green liquor to form white liquor.

LTA—Long-term average. For purposes of the effluent guidelines, average pollutant levels achieved over a period of time by a mill, subcategory, or technology option. These LTAs were used in developing the limitations and standards in today's proposed regulation. The annual average limitations and standards were set equal to the LTAs.

MACT—Maximum Achievable Control Technology. Technology basis for the national emission standards for hazardous air pollutants.

Major source—As defined in section 112(a) of the Clean Air Act, major source 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, considering controls, in the aggregate 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants."

Market pulp—Bleached or unbleached pulp in the form of bales or sheets for transfer or sale off-site.

Maximum daily discharge limitation—The highest allowable daily discharge of a pollutant measured during a calendar day or any 24 hour period that reasonably represents a calendar day.

Mechanical pulp—Pulp produced by reducing pulpwood logs and chips into their fiber components by the use of mechanical energy (at some CMP or CTMP mills with the use of chemicals or heat), via grinding stones, refiners, etc.

Mg—Megagram. One million (10^6) grams, or one metric ton.

Metric ton—One thousand (10^3) kilograms (abbreviated as kkg), or one megagram. A metric ton is equal to 2,204.5 pounds.

Minimum level—The level at which an analytical system gives recognizable signals and an acceptable calibration point.

Modification—As defined in section 112(a) of the Clean Air Act, modification is "any physical change in, or change in the method of operation of, a major source which increases the actual emission of any hazardous air pollutant emitted by such source by more than a *de minimis* amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a *de minimis* amount."

Multiple effect evaporator system—A series of evaporators, operated at different pressures such that the vapor from one evaporator body becomes the steam supply for the next evaporator, as well as the associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp.

NCASI—National Council of the Paper Industry for Air and Stream Improvement.

NESHAP—National Emission Standard for Hazardous Air Pollutants. Emission standards to be proposed and promulgated under section 112(d) of the Clean Air Act for hazardous air pollutants listed in section 112(b) of the Clean Air Act.

New Source—When used in connection with CAA obligations, a "new source" is a stationary source the

construction or reconstruction of which is commenced after the Administrator first proposes regulations under section 112 of the CAA establishing an emission standard applicable to such source. See CAA section 112(a). When used in connection with CWA obligations, a "new source" is any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commences after the promulgation of the standards being proposed today for the pulp, paper, and paperboard industry under sec. 306 of the CWA. See CWA section 306.

Non-continuous or intermittent discharge—Discharge of wastewaters stored for periods of at least 24 hours and released on a batch basis.

Nonconventional pollutants—Pollutants that are neither conventional pollutants nor toxic pollutants listed at 40 CFR 401.

Non-detect value—A concentration-based measurement reported below the minimum level that can reliably be measured by the analytical method for the pollutant.

Non-integrated mill—A mill that purchases or uses pulp produced at another site to produce paper or paperboard.

Non-water quality environmental impact—An environmental impact of a control or treatment technology, other than to surface waters.

NPDES—The National Pollutant Discharge Elimination System authorized under section 402 of the CWA. NPDES requires permits for discharge of pollutants from any point source into waters of the United States.

NRDC—Natural Resources Defense Council.

NSPS—New Source Performance Standards. This term refers to standards for new sources under both section 306 of the CWA and section 111 of the CAA. In today's regulation, EPA is proposing new and revised NSPS under the CWA. EPA is not proposing new or revised NSPS under the CAA, however EPA is proposing MACT standards for new sources under the authority of section 112 of the CAA.

Outfall—The mouth of conduit drains and other conduits from which a mill effluent discharges into receiving waters.

PM—Particulate Matter.

Point of Generation—The location where the process wastewater stream exits the pulping or bleaching process equipment or tank prior to mixing with other process wastewater streams or prior to handling or treatment in a piece of equipment that is not an integral part of the pulping or bleaching process equipment. A piece of equipment is an integral part of the process if it is essential to the operation of the process (i.e., removal of the equipment would result in the process unit being shut down). For example, a stripping column is part of the process unit if it produces the principal product stream and a process wastewater that is discharged to the sewer. However, an identical stripper that treats a process wastewater stream and recovers residual product would not be considered an integral part of the process. When quantifying parameters descriptive of the point of generation (e.g., flow rate and concentration) by measurement or sampling, the end results should be representative of the conditions at the point where the process wastewater stream exits the pulping or bleaching process equipment before it is treated or mixed with other process wastewater streams, and prior to exposure to the atmosphere.

Point source category—A category of sources of water pollutants.

Pollutant (to water)—Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, certain radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

POTW or POTWs—Publicly owned treatment works, as defined at 40 CFR 403.3(0).

Pretreatment standard—A regulation addressing industrial wastewater effluent quality required for discharge to a POTW.

Primary fuel—The fuel that provides the principal heat input to the device. To be considered primary, the fuel must be able to sustain operation of the combustion device without the addition of other fuels.

Priority pollutants—The toxic pollutants listed in 40 CFR part 423, Appendix A.

Process changes—Alterations in process operating conditions, equipment, or chemical use that reduce the formation of chemical compounds that are pollutants and/or pollutant precursors.

Process emission point—A gas stream that contains hazardous air pollutants discharged during operation of process equipment. Process emission points include gas streams that are discharged directly to the atmosphere, discharged to the atmosphere via vents or open process equipment, or after diversion through a product recovery device.

Process unit—A piece of equipment, such as a pulp washer, decker, or filtrate tank, associated with either the pulping process or the bleaching process.

Process wastewater—When used in connection with CWA obligations, any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes boiler blowdown; wastewaters from water treatment and other utility operations; blowdowns from high rate (e.g., greater than 98 percent) recycled non-contact cooling water systems to the extent they are mixed and co-treated with other process wastewaters; and, stormwaters from the immediate process areas to the extent they are mixed and co-treated with other process wastewaters. Contaminated groundwaters from on-site or off-site groundwater remediation projects are not process wastewaters. The discharge of such groundwaters are regulated separately, or in addition to, process wastewaters.

Process wastewater collection system—A piece of equipment, structure, or transport mechanism used in conveying or storing a process wastewater stream. Examples of process wastewater collection system equipment include individual drain systems, wastewater tanks, surface impoundments, or containers.

Process wastewater component—Air emissions from all process wastewater streams produced from the pulping and bleaching processes.

Process wastewater stream—When used in connection with CAA obligations, any HAP-containing liquid that results from either direct or indirect contact of water with organic compounds. Examples of a process wastewater stream include, but are not limited to digester condensates, evaporator condensates, and non-condensible gas system (NCG) condensates.

Process wastewater treatment system—When used in connection with CAA obligations, a process or specific technique that removes or destroys the organics or any HAP in a process wastewater stream. Examples include, but are not limited to a steam stripping unit, waste incinerator, or biological treatment unit.

Process water—Water used to dilute, wash, or carry raw materials, pulp, and any other materials used in the manufacturing process.

Production Rate—For application to NPDES permits and pretreatment standards, defined as the daily process-specific production rate used to apply to the effluent limitations guidelines and

standards in the proposed 40 CFR Part 430. Production shall be determined based upon the highest annual production in the five years divided by the number of operating days that year. See the General Provisions at 40 CFR 430.01 for production normalizing parameters applied to the limitations and standards (included in the definition of "product").

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the CWA.

PSNS—Pretreatment standards for new sources of indirect discharges, under section 307 (b) and (c) of the CWA.

Pulping component—All process equipment, beginning with the digester system, up to and including the last piece of pulp conditioning equipment prior to the bleaching component, including treatment with ozone, oxygen, or peroxide before the first application of chlorine or chlorine-containing compounds.

Purchased Pulp—Virgin pulp purchased from an off-site facility or obtained from an intra-company transfer from another site.

RCRA—Resource Conservation and Recovery Act (PL 94–580) of 1976, as amended.

Reconstruction—When used in connection with CAA obligations, reconstruction is the replacement of components of an affected source to such an extent that (1) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source, and (2) it is technologically and economically feasible for the reconstructed source to meet the promulgated emission standard(s) established by the Administrator pursuant to section 112 of the Clean Air Act.

Recovery Furnace—An enclosed combustion device where concentrated spent pulping liquor is burned to recover sodium and sulfur, produce steam, and dispose of unwanted dissolved wood components in the liquor.

Red liquor—Spent pulping liquor resulting from sulfite pulping.

Screen—A piece of process equipment where pieces of oversized particles are removed from the pulp slurry after the pulp washer system and prior to the papermaking equipment. Equipment used to remove uncooked wood prior to the pulp washer system are considered knotters.

Secondary fiber—Furnish consisting of recovered material. For the purposes of this preamble, secondary fiber does not include broke but does include recycled paper or paperboard known commonly as "post-consumer" recycled material.

Shives—Small bundles of fibers that have not been separated completely in the pulping operations.

SIC—Standard Industrial Classification (SIC). A numerical categorization system used by the U.S. Department of Commerce to denote segments of industry. An SIC code refers to the principal product, or group of products, produced or distributed, or to services rendered by an operating establishment. SIC codes are used to group establishments by the primary activity in which they are engaged.

Softwood—Pulpwood obtained from evergreen, cone-bearing species of trees, such as pines, spruces, hemlocks, etc., which are characterized by having needles.

Source Category—A category of major or area sources of hazardous air pollutants.

Source Reduction—The reduction or elimination of waste generation at the source, usually within a process. Any practice that (1) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and (2) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

Stationary source—Any building, structure, facility, or installation that emits or may emit any air pollutant. See CAA section 111.

Stripper system—A column, and associated feed tanks, decanters, reboilers, preheaters, condensers or heat exchangers, used to strip compounds from process wastewater, using air or steam.

Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Production Source Category under Title 40, chapter I, part 63 of the Code of Federal Regulations.

Sulfate process—An alkaline pulp manufacturing process in which the active chemicals of the liquor used in cooking (digesting) wood chips to their component parts in a pressurized vessel (digester) are primarily sodium sulfide (NA_2S) and sodium hydroxide (NaOH) with sodium sulfate (NA_2SO_4) and lime (CaO) being used to replenish these chemicals in recovery operations. Also referred to as the kraft process.

Sulfite process—An acid pulp manufacturing process in which chips are reduced to their component parts by cooking (digesting) in a pressurized vessel using a liquor of calcium, sodium, magnesium or ammonia salts of sulfurous acid.

Support Document(s)—see section II for titles.

TCDD—2,3,7,8-tetrachlorodibenzo-p-dioxin.

TCDF—2,3,7,8-tetrachlorodibenzofuran.

TCF—Totally chlorine-free. Any process for bleaching pulps in the absence of both chlorine and chlorine-containing compounds.

TEQ—Toxic Equivalent.

TOX—Total Organic Halides.

TRS—Total Reduced Sulfur. An air pollutant.

TSCA—Toxic Substances Control Act, 15 U.S.C. sections 2601–2671.

TSS—Total Suspended Solids.

Toxic pollutants—the pollutants designated by EPA as toxic in 40 CFR 401.15.

Variability factor—The daily variability factor is the ratio of the estimated 99th percentile of the distribution of daily values divided by the expected value, or mean, of the distribution of the daily data. The monthly variability factor is the estimated 95th percentile of the monthly averages of the data divided by the expected value of the monthly averages.

VOC—Volatile Organic Compounds—Any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the Administrator designates as having negligible photochemical reactivity. The Administrator has designated the following organic compounds as negligibly reactive: methane, ethane, methyl chloroform (1,1,1-trichloroethane), CFC–113 (trichlorotrifluoroethane), methylene chloride, CFC–11 (trichlorofluromethane), CFC–12 (dichlorodifluoromethane), CFC–22 (chlorodifluoromethane), FC–23 (trifluoromethane), CFC–114 (dichlorotrifluoroethane), CFC–115 (chloropentafluoroethane), HCFC–123 (dichlorotrifluoroethane), HFC–134a (tetrafluoroethane), HCFC–141b (dichlorofluoroethane), HCFC–142b (chlorodifluoroethane).

Waters of the United States—the same meaning set forth in 40 CFR 122.2.

White liquor—Pulping liquor made by causticizing green liquor, produced in the kraft recovery cycle, with slaked lime.

White water—Waters formed when stock or other fiber-bearing suspensions are dewatered.

Zero discharge (ZD)—No discharge of wastewater to waters of the United States or to a POTW.

II. Background Documents

The regulations proposed today are supported by several major documents. (1) The technical information supporting the air emissions regulations is detailed in "Pulp, Paper, and Paperboard Industry—Background Information for Proposed Air Emission Standards (October 1993)," hereafter referred to as the background information document (BID). The BID may be obtained from the EPA Library (MD–35), Research Triangle Park, NC, telephone number (919) 541–2777. Please refer to "Pulp, Paper, and Paperboard Industry—Background Information for Proposed Air Emission Standards," October 1993, EPA–453–R93–050a. (2) EPA's technical conclusions concerning the wastewater regulations are detailed in the "Development Document for Proposed Effluent Limitations Guidelines and Standards for the Pulp, Paper, and Paperboard Point Source Category," hereafter referred to as the technical water development document (EPA 821–R93–019). (3) The Agency's economic analysis is found in the "Economic Impact and Regulatory Flexibility Analysis of Proposed Effluent Guidelines and NESHAP for the Pulp, Paper, and Paperboard Industry," hereafter called the economic impact analysis (EPA 821–R93–021). (4) The regulatory impact analysis (including the Agency's assessment of environmental benefits) is detailed in the "Regulatory Impact Assessment of Proposed Effluent Guidelines and NESHAP for the Pulp, Paper, and Paperboard Industry," hereafter called the regulatory impact assessment (EPA 821–R93–020). (5) An analysis of the incremental costs and pollutant removals for the effluent regulations is presented in "Cost-effectiveness Analysis of Proposed Effluent Limitations Guidelines for the Pulp, Paper, and Paperboard Industry," (EPA 821–R93–018). (6) Analytical methods used in the development of proposed effluent guidelines are found in "Analytical Methods for the Determination of Pollutants in Pulp and Paper Industry Wastewater," a compendium of analytical methods (EPA 821–R93–017).

III. Legal Authority

These regulations are being proposed under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act, 33 U.S.C. sections 1311, 1314, 1316, 1317, 1318, and 1361, and sections 112, 114, and 301 of the Clean Air Act, 42 U.S.C. sections 7412, 7414, and 7601.

IV. Summary and Scope of the Proposed Regulations

Today's proposed rules include effluent limitations guidelines and standards for the control of wastewater pollutants. Today's proposed rules also include national emission standards for hazardous air pollutants. Sections IX and X of this notice discuss the rationale for the proposed water and air regulations, respectively. This summary section highlights the technology bases and other key aspects of the proposed rules. The technology descriptions in this section are presented in abbreviated form; more detailed descriptions are included in the technical water development document and the background information document.

Today's proposal presents the Agency's recommended regulatory approach and several others that were considered. The Agency's recommendation is based on extensive comments received from interested parties during the development of these proposed rules, and on detailed evaluation of the available data. As indicated below in the discussion of the specifics of the proposal, the Agency welcomes comment on all options and issues and encourages commenters to submit additional data during the comment period. Also, the Agency will have additional discussions with interested parties during the comment period to ensure that the Agency has the views of all parties and the best possible data upon which to base a decision for the final regulation. EPA's final regulation may be based upon any technologies, rationale or approaches that are a logical outgrowth of this proposal, including any options considered but not selected for today's proposed regulation.

A. Effluent Limitations Guidelines and Standards

1. Subcategorization

EPA is proposing to replace the subcategorization scheme under the existing effluent limitations guidelines for this industry (in parts 430 and 431) with a revised subcategorization scheme. The rationale for changing the existing subcategorization scheme and the development of the proposed subcategorization scheme are detailed in section IX.A. below. Table IV.A–1 is a summary of the new proposed subcategories and the corresponding subcategories under the existing regulations.

TABLE IV.A–1.—COMPARISON OF THE PROPOSED SUBCATEGORIZATION SCHEME WITH THE EXISTING SUBCATEGORIZATION SCHEME

Proposed subpart	Proposed subcategorization scheme	Current subcategorization scheme (with existing 40 CFR part 430 subparts noted)
A	Dissolving Kraft	Dissolving Kraft (F).
B	Bleached Papergrade Kraft and Soda	Market Bleached Kraft (G), BCT Bleached Kraft (H), Fine Bleached Kraft (I), Soda (P).
C	Unbleached Kraft	Unbleached Kraft (A). —Linerboard. —Bag and Other Products. Unbleached Kraft and Semi-Chemical (D, V).
D	Dissolving Sulfite	Dissolving Sulfite (K). —Nitration. —Viscose. —Cellophane. —Acetate.
E	Papergrade Sulfite	Papergrade Sulfite (J, U). —Blow Pit Wash. —Drum Wash.
F	Semi-Chemical	Semi-Chemical (B). —Ammonia. —Sodium.

TABLE IV.A–1.—COMPARISON OF THE PROPOSED SUBCATEGORIZATION SCHEME WITH THE EXISTING SUBCATEGORIZATION SCHEME—Continued

Proposed subpart	Proposed subcategorization scheme	Current subcategorization scheme (with existing 40 CFR part 430 subparts noted)
G	Mechanical Pulp	GW-Thermo-Mechanical (M), GW-Coarse, Molded, News (N), GW-Fine Papers (O), GW-Chemi-Mechanical (L).
H	Non-Wood Chemical Pulp	Miscellaneous mills not covered by a specific subpart.
I	Secondary Fiber Deink	Deink Secondary Fiber (Q). —Fine Papers. —Tissue Papers. —Newsprint.
J	Secondary Fiber Non-Deink	Tissue from Wastepaper (T). Paperboard from Wastepaper (E). —Corrugating medium. —Non-Corrugating Medium. Wastepaper-Molded Products (W). Builders' Paper and Roofing Felt (40 CFR part 431 subpart A).
K	Fine and Lightweight Papers from Purchased Pulp	Non-Integrated Fine Papers (R). —Wood Fiber Furnish. —Cotton Fiber Furnish. Lightweight Papers (X). —Lightweight Papers. —Lightweight Electrical Papers.
L	Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp	Non-Integrated. —Tissue Papers (S). —Filter and Non-Woven (Y). —Paperboard (Z).

2. Best Practicable Control Technology Currently Available (BPT)

EPA is proposing to revise the BPT effluent limitations guidelines for biochemical oxygen demand (BOD_5) and total suspended solids (TSS) for all subcategories of the pulp, paper, and paperboard industry. These proposed revisions are based on the application of secondary wastewater treatment with appropriate water use and reuse. In most cases, the proposed effluent limitations are defined by the performance of the average of the best 50 percent of mills in that subcategory. The development of proposed BPT effluent limitations is discussed in section IX.E.1 of this notice and in chapter 9.2 of the technical water development document.

3. Best Conventional Pollutant Control Technology (BCT)

EPA is proposing to revise the BCT effluent limitations guidelines for BOD_5 and TSS for all subcategories of the pulp, paper, and paperboard industry. In most cases, the proposed BCT effluent limitations are equal to the proposed BPT effluent limitations. The development of proposed BCT effluent limitations is further explained in section IX.E.2.

4. Best Available Technology Economically Achievable (BAT)

The Agency is proposing to revise the BAT effluent limitations guidelines for six subcategories of the pulp, paper, and paperboard industry to control pollutants in the bleach plant effluent and in the end-of-pipe effluent. Table IV.A–2 is a summary of the technology basis for the proposed effluent limitations for each subcategory.

TABLE IV.A–2.—TECHNOLOGY BASIS FOR BAT EFFLUENT LIMITATIONS

Proposed subpart	Name of subcategory	Technology basis
A	Dissolving Kraft	Oxygen delignification with 70% chlorine dioxide substitution for chlorine; COD controls.
B	Bleached Papergrade Kraft and Soda.	Oxygen delignification or extended delignification with 100% chlorine dioxide substitution for chlorine; COD controls; color controls.
C	Unbleached Kraft.	COD controls
D	Dissolving Sulfite.	Oxygen delignification with 100% chlorine dioxide substitution for chlorine.
E	Papergrade Sulfite.	Totally chlorine-free bleaching; COD controls.
F	Semi-chemical	COD controls.

In addition to the effluent limitations based on the technologies in Table IV.A–2 for subcategories A, B, and D, EPA is proposing alternative effluent limitations applicable to mills that utilize totally chlorine-free processes in these subcategories.

EPA is proposing to control toxic and nonconventional pollutants in the bleach plant effluent and in the end-of-pipe effluent. The pollutants controlled and the points of application vary for each subcategory and are described in sections IX.C and IX.E.3.

5. New Source Performance Standards (NSPS).

a. Toxic and Nonconventional Pollutants. EPA is proposing revised NSPS for seven subcategories of the pulp, paper, and paperboard industry. In five of these subcategories, EPA is proposing NSPS equivalent to the proposed BAT effluent limitations. In one subcategory (Bleached Papergrade Kraft), EPA is proposing NSPS based on prebleaching controls in addition to

those that form the technology basis for proposed BAT. In one subcategory where EPA is not today proposing BAT limits (secondary fiber non-deink), EPA is proposing NSPS based on zero discharge of wastewater. A summary of the pollutants and subcategories controlled is presented in section IX.C, and the development of proposed NSPS for toxic and nonconventional pollutants is discussed in section IX.E.4.

b. *Conventional Pollutants.* EPA is proposing to revise the NSPS controlling discharges of BOD_5 and TSS for all subcategories at a level equal to the discharge characteristics of the best performing mill. A summary of the pollutants and subcategories controlled is presented in section IX.C, and the development of proposed NSPS for conventional pollutants is discussed in section IX.E.4.

6. Pretreatment Standards for Existing Sources (PSES)

EPA is proposing to revise PSES for the same toxic and nonconventional pollutants to be controlled by the proposed BAT limitations based on the same technologies, as summarized in Table IV.A–2. PSES are further discussed in section IX.E.5.

7. Pretreatment Standards for New Sources (PSNS)

EPA is proposing to revise PSNS for the same toxic and nonconventional pollutants controlled by the proposed NSPS based on the same technologies. PSNS are further discussed in section IX.E.6.

8. Best Management Practices (BMPs)

EPA is proposing BMPs today for the following subparts: A (Dissolving Kraft), B (Bleached Papergrade Kraft and Soda), C (Unbleached Kraft), D (Dissolving Sulfite), E (Papergrade Sulfite), F (Semi-Chemical), and H (Non-Wood Chemical Pulp). EPA is proposing to require that each mill in the subparts listed above develop a BMPs plan within 120 days of promulgation of this rule. This plan must be submitted to EPA for approval and implemented within 24 months of promulgation. The BMPs requirements are discussed further in section IX.E.7.

B. National Emission Standards for Hazardous Air Pollutants

Today's proposed standards would amend title 40, chapter I, part 63 of the Code of Federal Regulations by adding a subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Production Source Category. The following is a summary of the proposed standards.

1. Source Category Covered by Standards

Hazardous air pollutant emissions from the pulp and paper production source category are being regulated under section 112(d) of the CAA. The standards proposed today would regulate HAP emissions from mills that chemically pulp wood fiber using kraft, sulfite, soda, or semi-chemical methods. Today's standards are limited to the emission points in the pulping and bleaching processes and in the associated process wastewater collection and treatment systems. Data were not available to evaluate potential controls for other emission points within the source category. Standards for the remaining portion of the pulp and paper production source category will be proposed separately.

For today's regulations, EPA is not proposing to subcategorize the pulp and paper production source category.

2. Pollutants Regulated

Today's proposed standards would regulate emissions of any and all of the 189 HAPs listed under section 112(b) of the CAA. The regulations would require control of aggregated HAP emissions.

3. Source

For today's regulations, EPA is proposing to define a single source to include the pulping processes, the bleaching processes, and the associated process wastewater streams.

4. Applicability

The requirements of the proposed standards would apply to the owners or operators of an existing or new major source, as defined under the CAA at section 112(a), comprising all pulping process components, bleaching process components, and process wastewater components associated with the production of chemical pulp from wood, including kraft, soda, sulfite, or semi-chemical processes.

5. Format of the Standards

As authorized under section 112(h) of the CAA, the proposed standards consist of a combination of emission standards and equipment, design, and work practice standards. Emission standards are used whenever feasible; however, such standards are not feasible in all circumstances. In some circumstances, alternative emission standards are also proposed. Separate standards for the pulping, bleaching, and process wastewater components, as well as for enclosures and closed vent systems, are proposed.

6. Standards for Pulping

An emission standard to reduce HAP emissions by at least 98 percent by weight based upon the use of combustion is proposed for the pulping component of this source category. Three equivalent ways to meet this standard are proposed. Sources subject to the proposed standard would comply with the regulation by enclosing open process equipment and routing all emissions through a closed vent system and either demonstrating 98 percent reduction of HAP emissions through a control device, or demonstrating compliance in one of the three following ways:

- Concentration limitation—Meet an incinerator outlet concentration of 20 ppmv of total HAP;
- Equipment and design standard—Route emissions to an incinerator designed and operated at a minimum temperature of 1600°F and a minimum residence time of 0.75 seconds;
- Equipment and design standard—Route emissions to a boiler, lime kiln, or recovery furnace which introduces all emission point gas streams with the primary fuel or into the flame zone.

All emission points within the pulping component, except those from equipment that follow primary washing, such as deckers and screens, are required to be controlled by the proposed standards, unless the mill can show one of the following conditions exists:

- The emission point from an enclosed process has a flow rate less than 0.0050 scmm;
- The emission point from an enclosed process has an emission rate less than 0.230 kg total HAP/hr;
- The emission point from an enclosed process has emissions less than 0.0010 kg total HAP/Mg air dry pulp (ADP) produced; or
- Process equipment has a total liquid phase concentration from all entering streams combined of less than 0.050 kg of total HAP/Mg of ADP produced.

7. Standards for Bleaching

Sources subject to the proposed standards would comply with the regulations by enclosing open process equipment and routing all emissions through a closed vent system and reducing total HAP mass in the vent stream entering the treatment device by 99 percent, based upon use of a scrubber.

All emission points within the bleaching component are required to be controlled by the proposed standards, unless the mill can show one of the following conditions exists:

(1) The emission point from an enclosed process has a flow rate less than 0.0050 scmm;

(2) The emission point from an enclosed process has an emission rate less than 0.230 kg total HAP/hr; or

(3) The emission point from an enclosed process has emissions less than 0.0010 kg total HAP/Mg ADP produced.

8. Standards for Process Wastewater

Under the proposed standards, bleaching process wastewater streams are not required to be controlled. Pulping process wastewater streams with total HAP concentrations greater than or equal to 500 ppmw and flow rates greater than or equal to 1.0 ℓpm are required to be controlled. The proposed wastewater treatment standard is 90 percent reduction of total HAP, based upon steam stripping. Other techniques such as biological treatment that achieve a 90 percent reduction may also be used. The requirements include the following three equivalent ways to meet the standard:

(1) Recycle applicable wastewater streams to a process unit that is controlled as per the standards for pulping;

(2) Reduce the concentration of HAP in the wastewater outlet to less than 500 ppmw; or

(3) Use a design steam stripper.

Emissions of HAP from wastewater treatment devices (except biological treatment units) must be routed to a control device meeting the pulping component control requirements.

Wastewater collection and treatment systems must be designed and operated without leaks. All tanks, containers, and surface impoundments storing applicable wastewater streams must be enclosed, and all vented vapors must be routed to a control device by means of a closed vent system. A submerged fill pipe must be used to fill containers with a wastewater stream or any stream containing HAP removed from a wastewater stream. All drain systems that receive or manage applicable wastewater streams must be enclosed and any HAP emissions must be routed to a control device.

9. Enclosures and Closed Vent System Standards

Under the proposed standards, all pulping and bleaching component emissions requiring control must be captured and contained by enclosing open process equipment and must be transported in a closed vent system. In addition, the closed vent system must be designed and operated with no detectable leaks. Open process equipment, such as washers, must be enclosed and emissions captured by demonstrating and maintaining a negative pressure at all openings.

10. Test Methods

Test methods and procedures are required to ensure compliance with the standards proposed for the pulping, bleaching, and wastewater components. The proposed standards include requirements for demonstrating that an emission point or wastewater stream is in compliance with control requirements or not required to be controlled. Also included are provisions to test for no detectable leaks from closed vent systems and process wastewater collection and treatment systems. Because the majority of all HAP emissions from the pulping and process wastewater components are methanol, the owner or operator has the option of measuring methanol concentration or methanol emissions as surrogates for total HAP emissions from these areas. For the mass limit requirements or percent reduction requirements, the total HAP concentration in the bleaching component may be measured by methanol and chlorine as surrogates for total HAP.

11. Continuous Monitoring Requirements

Some operating parameters associated with control devices must be continuously monitored. All closed vent systems and process wastewater collection and treatment equipment must be inspected monthly to ensure there are no detectable leaks in the system. Enclosures over previously open process equipment must be visually inspected every 30 days to ensure that all openings in the enclosure that were closed during the performance test remain closed.

12. Recordkeeping and Reporting Requirements

Sources subject to the proposed standards are required to submit the following five types of reports: (1) Initial Notification, (2) Notification of Performance Tests, (3) Exceedance Reports, and (4) Quarterly Summary Reports. Exceedance and Summary Reports are not required for emission points that are not required to be controlled. The proposed rule also requires sources to keep readily accessible records of monitored parameters. For those control devices that must be monitored continuously, records that include at least one monitored value for every 15 minutes of operation are considered sufficient. These monitoring records must be maintained for five years.

C. Scope of Today's Proposed Rules

These proposed rules apply to mills within the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classifications (SIC) 2611 (pulp mills), 2621 (paper mills except building paper mills), 2631 (paperboard mills), and 2661 (building paper and building board mills). Some components of these proposed rules apply to only some of the foregoing mills. The mills covered by each component of these proposed rules are shown on Table IV.C–1.

TABLE IV.C–1.—APPLICATION OF PROPOSED RULES TO SUBPARTS

Effluent guidelines subcategory	Effluent guidelines subpart	Clean Air Act NESHAP	Clean Water Act		
			Toxics & nonconv: BAT, NSPS, PSES, and PSNS	Conv: BPT, BCT, NSPS	BMPs
Dissolving Kraft	A	X	X	X	X
Bleached Papergrade Kraft and Soda	B	X	X	X	X
Unbleached Kraft	C	X	X	X	X
Dissolving Sulfite	D	X	X	X	X
Papergrade Sulfite	E	X	X	X	X

TABLE IV.C–1.—APPLICATION OF PROPOSED RULES TO SUBPARTS—Continued

Effluent guidelines subcategory	Effluent guidelines subpart	Clean Air Act NESHAP	Clean Water Act		
			Toxics & nonconv: BAT, NSPS, PSES, and PSNS	Conv: BPT, BCT, NSPS	BMPs
Semi-Chemical	F	X	X	X	X
Mechanical Pulp	G			X	
Non-wood Chemical	H			X	X
Secondary Fiber Deink	I			X	
Secondary Fiber Non-Deink	J		X*	X	
Fine and Lightweight Papers from Purchased Pulp	K			X	
Tissue, Filter, Nonwoven, and Paperboard from Purchased Pulp	L			X	

*NSPS only.

V. Background

A. Clean Water Act

1. Statutory Requirements of Regulations

The objective of the Clean Water Act (CWA) is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters". CWA § 101(a). To assist in achieving this objective, EPA issues effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers. These guidelines and standards are summarized below:

a. *Best Practicable Control Technology Currently Available (BPT)—sec. 304(b)(1) of the CWA.* BPT effluent limitations guidelines apply to discharges of conventional pollutants from existing sources. BPT guidelines are based on the average of the best existing performance by plants in a category or subcategory. In establishing BPT, EPA considers the cost of achieving effluent reductions in relation to the effluent reduction benefits, the age of equipment and facilities, the processes employed, process changes required, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and other factors as EPA Administrator deems appropriate. CWA 304(b)(1)(B). Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category.

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demanding pollutants (measured as BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

b. *Best Conventional Pollutant Control Technology (BCT)—sec. 304(b)(4) of the CWA.* The 1977 amendments to the CWA established BCT as an additional level of control for discharges of conventional pollutants from existing industrial point sources. In addition to other factors specified in section 304(b)(4)(B), the CWA requires that BCT limitations be established in light of a two part "cost-reasonableness" test. EPA issued a methodology for the development of BCT limitations in July 1986 (51 FR 24974).

c. *Best Available Technology Economically Achievable (BAT)—sec. 304(b)(2) of the CWA.* In general, BAT effluent limitations guidelines represent the best existing economically achievable performance of plants in the industrial subcategory or category. The CWA establishes BAT as a principal means of controlling the direct discharge of toxic and nonconventional pollutants to waters of the United States. The factors considered in assessing BAT include the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts, including energy requirements. The Agency retains considerable discretion in assigning the weight to be accorded these factors. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

d. *New Source Performance Standards (NSPS)—section 306 of the CWA.* NSPS are based on the best available demonstrated treatment technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available control technology for all pollutants (i.e., conventional, nonconventional, and toxic pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

e. *Pretreatment Standards for Existing Sources (PSES)—sec. 307(b) of the CWA.* PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). The CWA authorizes EPA to establish pretreatment standards for pollutants that pass through POTWs or interfere with treatment processes or sludge disposal methods at POTWs. Pretreatment standards are technology-based and analogous to BAT effluent limitations guidelines.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. Those regulations contain a definition of pass-through that addresses localized rather than national instances of pass-through and establish pretreatment standards that apply to all nondomestic dischargers. See 52 FR 1586, January 14, 1987.

f. *Pretreatment Standards for New Sources (PSNS)—sec. 307(b) of the CWA.* Like PSES, PSNS are designed to prevent the discharges of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTW. PSNS are to be issued at the same time as NSPS. New

indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

g. *Best Management Practices (BMPs).* Section 304(e) of the CWA gives the Administrator the authority to publish regulations, in addition to the effluent limitations guidelines and standards listed above, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines may contribute significant amounts of pollutants.

2. Prior Regulations

EPA promulgated BPT, BAT, NSPS, and PSNS for the builders' paper and roofing felt subcategory of the builders' paper and board mills point source category on May 9, 1974 (39 FR 16578; 40 CFR part 431). EPA promulgated BPT, BAT, NSPS, and PSNS for the unbleached kraft, sodium-based neutral sulfite semi-chemical, ammonia-based neutral sulfite semi-chemical, unbleached kraft neutral-sulfite semi-chemical (cross recovery), and paperboard from wastepaper subcategories of the pulp, paper, and paperboard point source category on May 29, 1974 (39 FR 18742; 40 CFR part 430).

EPA promulgated BPT for the dissolving kraft, market bleached kraft, BCT (board, coarse, and tissue) bleached kraft, fine bleached kraft, papergrade sulfite (blow pit wash), dissolving sulfite pulp, groundwood-thermo-mechanical, groundwood-CMN papers, groundwood-fine papers, soda, deink, nonintegrated-fine papers, nonintegrated-tissue papers, tissue from wastepaper, and papergrade sulfite (drum wash) subcategories of the pulp, paper, and paperboard point source category on January 6, 1977 (42 FR 1398; 40 CFR part 430).

Several industry members challenged the regulations promulgated in May 1974 and January 1977. These challenges were heard in the District of Columbia Circuit Court of Appeals. The promulgated regulations were upheld in their entirety with one exception. The Agency was ordered to reconsider the BPT BOD_5 limitation for acetate grade pulp production in the dissolving sulfite pulp subcategory. *Weyerhaeuser Company, et al.* v. *Costle,* 590 F. 2nd 1011 (D.C. Circuit 1978). In response to this remand, the Agency proposed BPT regulations for acetate grade pulp production in the dissolving sulfite pulp subcategory on March 12, 1980 (45 FR 15952). These proposed regulations were not promulgated.

EPA published proposed effluent limitations guidelines and standards for BAT, BCT, NSPS, PSES, and PSNS for 24 of the 25 subcategories of the pulp, paper, and paperboard industry on January 6, 1981 (46 FR 1430). These regulations were promulgated on November 18, 1982 (47 FR 52006) with the exception of BCT, which was reserved. On December 17, 1986, EPA promulgated BCT effluent limitations for 24 of the 25 subcategories of the pulp, paper, and paperboard industry (51 FR 45232). These regulations are currently in effect.

3. Litigation History (Since the 1982 Promulgation)

On March 25, 1985, the Environmental Defense Fund and the National Wildlife Federation filed suit against the Agency concerning the regulation of dioxins and furans (*Environmental Defense Fund and National Wildlife Federation* v. *Thomas,* Civ. No. 85–0973 (D.D.C.)). In settlement of this lawsuit, EPA entered into a consent decree (the "Consent Decree") on July 27, 1988. The Consent Decree imposed a number of obligations on EPA. Among these was the obligation to adopt a schedule to address discharges of dioxins and furans from 104 bleaching pulp mills. As amended by order dated April 2, 1992, the Consent Decree requires the Agency to propose regulations addressing discharges of dioxins and furans from these mills on or before October 31, 1993. Today's proposed rulemaking satisfies this obligation. The Consent Decree requires EPA to use its best efforts to promulgate regulations addressing discharges of dioxins and furans from these mills within 18 months of this proposal.

The Consent Decree also requires EPA to conduct a multiple pathway risk assessment considering sludges, water effluent, and products made from pulp produced at the mills studied in the U.S. EPA/Industry Cooperative Dioxin Study (hereafter referred to as the 104-Mill Study and described in section V.E. below). The risk assessment considering sludges and products is discussed in section V.C. below.

4. Section 304(m) Requirements

Section 304(m) of the Clean Water Act (33 U.S.C. 1314(m)), added by the Water Quality Act of 1987, requires EPA to establish schedules for (i) reviewing and revising existing effluent limitations guidelines and standards and (ii) promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (55 FR 80), in which schedules were established for developing new and revised effluent guidelines for several industry categories. One of the industries for which the Agency established a schedule was the pulp, paper, and paperboard and the builders' paper and board mills point source category.

Natural Resources Defense Council, Inc. (NRDC) and Public Citizen, Inc. challenged the Effluent Guidelines Plan in a suit filed in U.S. District Court for the District of Columbia (*NRDC et al.* v. *Reilly,* Civ. No. 89–2980 (D.D.C.)). The plaintiffs charged that EPA's plan did not meet the requirements of sec. 304(m). On January 31, 1992, EPA entered into a consent decree (the "304(m) Decree"), which establishes schedules for, among other things, EPA's proposal and promulgation of approximately 20 effluent guidelines. Paragraph 2(b) of the 304(m) Decree provides that:

> "Revision of the effluent guidelines for the pulp, paper, and paperboard point source category is the subject of litigation in *EDF* v. *Thomas,* Civ. No. 85–0973 (D.D.C.) . . . The schedules for proposal and final action for those guidelines are the subject of those proceedings, and are not the subject of this decree."

B. Clean Air Act

1. Statutory Requirements

Title III of the 1990 Clean Air Act Amendments was enacted to reduce the amount of nationwide air toxic emissions. It comprehensively amended section 112 of the Clean Air Act (CAA).

Section 112(b) lists the 189 chemicals, compounds, or groups of chemicals deemed by Congress to be hazardous air pollutants (HAPs). These toxic air pollutants are to be regulated by national emission standards for hazardous air pollutants (NESHAP). Section 112(c) requires the Administrator to use this list of HAPs to develop and publish a list of source categories for which NESHAP will be developed. EPA must list all known categories and subcategories of "major sources."

The term "major source" is defined in paragraph 112(a)(1) to mean "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, considering controls, in the aggregate 10 tons per year (tons/yr) or more of any HAP or 25 tons/yr or more of any combination of HAPs." The term "stationary source," from section 111 of the CAA, means any building, structure, facility, or installation that emits or may emit any air pollutant. The term "area source," as defined in section 112(a)(2), means any

stationary source of HAPs that is not a major source.

Notice of the initial list of categories of major and area sources of HAPs was published on July 16, 1992 (57 FR 31576), under authority of section 112(c). This notice listed pulp and paper production as a category of major sources of HAPs. Notice of the draft schedule for the promulgation of emission standards for the listed categories, under authority of section 112(e), was given on September 24, 1992 (57 FR 44147). Under this notice, emission standards for the pulp and paper production industry would be promulgated no later than November 15, 1997.

Section 112(d) of the CAA directs the Administrator to promulgate emission standards for each category of HAP sources listed under section 112(c). Such standards are applicable to both new and existing sources and must require that

> the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new and existing sources in the category or subcategory to which such emission standard applies. . . .
> (42 U.S.C. 7412 (d)(2)).

Section 112(d)(3) provides that "the maximum degree of reduction in emissions that is deemed achievable" for new sources shall not be any less stringent than "the emission control that is achieved in practice by the best controlled similar source." For existing sources, the standards may not be less stringent than "the average emission limitation achieved by the best performing 12 percent of existing sources" in each category of 30 or more sources.

Once this minimum control level (referred to as the floor) has been determined for new or existing sources for a category, the Administrator must set a standard based on maximum achievable control technology (MACT) that is no less stringent than the floor. The Administrator may set MACT standards that are more stringent than the floor if such standards are achievable considering the cost, environmental, and other impacts listed in section 112(d)(2). Such standards must then be met by all sources within the category.

2. Prior Regulations

On February 23, 1978 (43 FR 7568), EPA promulgated new source performance standards (NSPS) to limit emissions of particulate matter (PM) and total reduced sulfur (TRS) from new, modified, and reconstructed kraft pulp mills under the authority of section 111 of the CAA. These standards also applied in some circumstances to existing sources, under authority of CAA section 111(d). The standards limited TRS and PM emissions from recovery furnaces, smelt dissolving tanks, lime kilns, digester systems, multiple effect evaporator systems, black liquor oxidation systems, brownstock washer systems, and condensate stripper systems that were constructed, modified, or reconstructed after September 24, 1976. These standards reflected the application of the best technological system of continuous emission reduction that (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) the Administrator determined had been adequately demonstrated.

Minor revisions and corrections to these standards were promulgated on May 20, 1986 (51 FR 18538). The revisions exempted black liquor oxidation systems from the standards; revised the existing TRS standard and its units for smelt dissolving tanks; deleted the requirement to monitor the combustion temperature in lime kilns, power boilers, or recovery furnaces; changed the frequency of excess emission reports from quarterly to semiannual; and exempted diffusion washers from the TRS standard for brownstock washer systems. The revisions also required that monitored emissions be recorded, and corrected the reference for reporting excess emissions. Today's action does not revise or change the requirements of this NSPS.

C. Sludge Regulatory Development

1. Sludge Activities in Response to the Consent Decrees

a. *Consent Decree Obligations.* As introduced in section V.A. above, the Consent Decree requires EPA to perform a number of activities under its various statutes. The activity that led to various regulatory programs addressing pulp and paper sludge management was a multi-media, multi-pathway risk assessment for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) and 2,3,7,8-tetrachlorodibenzofuran (TCDF) emissions from chlorine-bleaching pulp and paper mills. EPA, the Food and Drug Administration (FDA), and the Consumer Product Safety Commission (CPSC) performed the risk assessment. The multi-media risk assessment consists of ten separate assessments examining approximately 120 exposure pathways, including sludge use and disposal. The sludge assessment is entitled "Assessment of Risks from Exposure of Humans, Terrestrial, Avian, and Aquatic Life to Dioxins and Furans from Disposal and Use of Sludge from Bleached Kraft and Sulfite Pulp and Paper Mills" (EPA 560/5–90–013, July 1990) and hereafter referred to as the integrated risk assessment.

By April 30, 1990, the consent decree required EPA to take at least one of four possible actions with respect to the matters considered in the integrated risk assessment. The four options were:

(1) Commit to propose regulations in the **Federal Register** by April 30, 1991;

(2) Commit to refer under TSCA section 9 some or all matters under consideration to another Federal agency or agencies by October 30, 1990;

(3) Determine that the regulations or referrals are unnecessary;

(4) Determine that EPA does not have sufficient information to make one of the above determinations, establish a schedule to obtain the required information by April 30, 1991, and then within 180 days take at least one of the options.

The findings of the integrated risk assessment compelled EPA to make determinations of the risks associated with the management of sludge through the practice of land application, landfills, and surface impoundments.

On June 19, 1991, EPA entered into another consent decree, *EDF* v. *Reilly* (to date this decree has not been signed by the court). This decree sets out an extensive series of deadlines for promulgating Resource Conservation and Recovery Act (RCRA) rules and for completing certain studies and reports. One component of the decree is a contingency listing determination for pulp and paper mill sludge. The decree requires a listing determination to be proposed 12 months and promulgated 24 months after the effluent limitations guidelines and standards are promulgated. EPA is not required to make a listing determination "if the final rule for the pending effluent limitations guidelines and standards rulemaking . . . under the Clean Water Act to regulate the discharge of dioxins from pulp and paper mills is based on the use of oxygen delignification, ozone bleaching, prenox bleaching, enzymatic bleaching, hydrogen peroxide bleaching, oxygen

and peroxide enhanced extraction or any other technology involving substantially similar reductions in uses of chlorine-containing compounds."

b. *Regulation of Sludge Land Application.* On May 10, 1991, electing to exercise option (i), EPA published proposed rules under section 6 of the Toxic Substances Control Act (TSCA) to regulate the use of sludge produced from the treatment of wastewater effluent of pulp and paper mills using chlorine and chlorine-derivative bleaching processes (56 FR 21802; Docket OPTS–62100). The proposed regulations sought to establish a final maximum TCDD and TCDF soil concentration of 10 ppt toxic equivalents (TEQ) and site management practices for the land application of bleached kraft and sulfite mill sludge. EPA was to make a good faith effort to promulgate the rule by November 1992.

On December 11, 1992, EPA informed the plaintiffs of the Consent Decree (*EDF* v. *Thomas*) that the decision on the promulgation of the proposed sludge land application rule was deferred pending promulgation in 1995 of the integrated rulemaking for effluent guidelines and national emission standards. The effluent limitations and emission standards have the potential to result in bleach plant process changes, which should result in reduced dioxin and furan contamination levels in sludge.

In light of the anticipated impact of the effluent limitations guidelines and air emissions on reducing dioxin in pulp and paper mill sludges, as well as reduction in sludge dioxin levels from industry-initiated improvements, EPA chose to defer the decision on promulgation of the final sludge land application rule. When EPA has determined the final impact of the effluent guidelines on sludge dioxin concentration, EPA will re-evaluate the risk from sludge land application and will choose the appropriate regulatory or non-regulatory mechanism to address the situation. The Agency expects this determination to be made in 1995–1997.

Prior to that determination, however, EPA is taking action to achieve risk reduction. In the interim period before the effluent limitations and emission standards are promulgated and the sludge listing determinations are made, EPA will promote the establishment of an industry environmental stewardship program for the practice of sludge land application. The centerpiece of this program would be a voluntary agreement establishing standards and management practices for those facilities currently practicing land application. EPA and industry representatives have begun negotiations for such a voluntary agreement.

c. *Regulation of Landfills and Surface Impoundments.* On November 8, 1991, EPA, exercising option (iii), informed the plaintiffs of the Consent Decree of EPA's decision not to promulgate additional regulations under Subtitle D of the Resource Conservation and Recovery Act (RCRA) for landfills and surface impoundments receiving sludge from bleached kraft and sulfite mills. EPA concluded that, under current conditions, dioxin contained in pulp and paper mill sludges does not impose an unreasonable risk to human health and the environment when disposed in landfills and surface impoundments.

2. Land Disposal Restrictions Activities

a. *Background.* In addition to the land disposal restrictions imposed by the Consent Decree, as described in section V.C.1. above, pulp and paper sludges are subject to the provisions of the Resource Conservation and Recovery Act (RCRA). The Hazardous and Solid Waste Amendments (HSWA) to RCRA, enacted on November 8, 1984, allow hazardous wastes to be land disposed only if they are treated, or otherwise satisfy the requirement of substantially diminishing the toxicity of the waste or substantially reducing the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized (section 3004(m) of RCRA). Congress required EPA to promulgate land disposal prohibitions and treatment standards by May 8, 1990 for all wastes that were either listed or identified as hazardous at the time of HSWA, to avoid a ban on land disposal of those hazardous wastes.

On May 8, 1990, EPA promulgated regulations addressing the last of the five prohibitions, the third one-third of the schedule of restricted hazardous wastes (hereafter referred to as the Third Third). Among other things in the Third Third final rule, the Agency promulgated treatment standards and prohibitions for hazardous wastes that exhibited one or more of the following characteristics: ignitability, corrosivity, reactivity, or EP toxicity. The Agency stated in that rule the important principle that merely removing the characteristic of a hazardous waste did not mean that treatment of that waste must cease. So long as the waste exhibits a characteristic at the point it is generated, it can continue to be treated until the short and long-term threats to human health and the environment are minimized.

The D.C. Circuit agreed with EPA on this point, but extended EPA's reasoning, stating that EPA's discretion to apply this point of generation principle for wastes was limited, and that for wastes that exhibit a characteristic at the point of generation, all hazardous constituents must be destroyed or removed before the waste is land disposed. This potentially disallows the common practice of aggregating wastewater for centralized wastewater treatment in land disposal units like surface impoundments, because the aggregation step typically does not destroy or remove hazardous constituents; it merely dilutes them. Because of the nexus with the CWA, the court crafted a limited exception that allows such aggregated wastewater to be placed in surface impoundments without first being fully treated, provided that the treatment the waste receives in the surface impoundment is equivalent to the treatment it would have received in a surface treatment unit. 976 F.2d at 23, 24.

b. *Applicability to the Pulp and Paper Industry.* RCRA land disposal restrictions (LDRs) are applicable to the pulp and paper industry, because the industry has wastes that are ignitable or corrosive at the point of generation, and at some facilities the waste is subsequently land disposed (discharged to a surface impoundment). These ignitable or corrosive wastes typically contain hazardous constituents, such as chloroform, which under the court's ruling must be destroyed or removed in some manner.

c. *Current Situation.* On January 19, 1993, EPA published a Notice of Data Availability to solicit as many comments as possible on all issues in the court opinion (58 FR 4972). The **Federal Register** notice and Supplemental Information Report (reference number F93–TTCA–FFFFF) can be found in Section 2.5 of the public record supporting this rule or may be obtained by visiting the RCRA Docket, located in room M2427 at EPA Headquarters, or calling (202) 260–9327.

On May 24, 1993, EPA published an Interim Final Emergency Rule to address those issues that required immediate attention (58 FR 29860). As explained in the emergency rule, CWA systems are not immediately affected by the court ruling—the applicable treatment standards were remanded to the Agency, and will remain in effect until the Agency modifies the RCRA regulations. Current practices by the industry of diluting ignitable or corrosive waste streams prior to discharge into a surface impoundment that treats the waste are acceptable for now. Modifications to the RCRA deactivation standard for CWA systems

will be addressed in rulemakings scheduled to be finalized in 1995 and 1996. As stated in the Notice of Data Availability, the Agency will be considering applying end-of-pipe wastewater limitations and controls on emissions and leaks from surface impoundments. In addition, the Agency will determine if controls established under the CWA and CAA adequately address the requirements of RCRA.

D. Pollution Prevention Act

In the Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*, Pub. L. 101–508, November 5, 1990), Congress declared pollution prevention the national policy of the United States. The Pollution Prevention Act declares that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented or reduced should be recycled or reused in an environmentally safe manner wherever feasible; pollution that cannot be recycled should be treated; and disposal or release into the environment should be chosen only as a last resort.

Today's proposed rules are consistent with this policy. As described in sections IX and X, development of today's rules focused on the pollution-preventing technologies that some segments of the industry have already adopted. Thus, a critical component of the technology basis for certain effluent limitations is a process change that eliminates the formation of certain toxic chemicals. Process changes were also considered as the technology basis for the emission standards.

E. Summary of Environmental Studies

After the 1982 promulgation of effluent guidelines and standards, research and studies in the United States and other countries showed that pulp and paper mills were discharging toxic pollutants that had not been addressed in the earlier rulemaking. Presented below is a summary of some of the major studies.

1. Swedish Studies

In the mid-1980's, the Swedish Environmental Protection Board's Environment Cellulose project documented biological effects of pulp and paper mill wastes on several species of aquatic life in the Baltic Sea (Sodergren, A., B. E. Bengtsson, et al., "Summary of Results from the Swedish Project Environment Cellulose," Water Science Tech., Vol. 20, No. 1, 1988).

2. National Dioxin Study

In 1983, EPA issued a Dioxin Strategy to establish a framework for addressing dioxin contamination. As part of the Dioxin Strategy, the Agency conducted a broad National Dioxin Study of dioxin contamination in the environment and its associated risks (U.S. EPA, "The National Dioxin Study, Tiers 3, 5, 6, and 7," EPA 440/4–87–003, Office of Water Regulations and Standards, Washington, D.C., February 1987). An unexpected finding of the National Dioxin Study was that the dioxin isomer 2,3,7,8-tetrachlorodibenzo-p-dioxin (or TCDD) was present in fish downstream from 57 percent of the pulp and paper mill sites sampled. To further investigate these results, EPA sampled wastewater treatment sludge at pulp and paper mills in late 1985, and dioxin was also detected in the sludges. The data revealed that, within the paper industry, bleached kraft pulp mills contained the highest levels of dioxin. This suggested that dioxin was probably being formed as a by-product during the bleaching of wood pulp with chlorine or chlorine derivatives.

3. Five-Mill Study

In early 1986, EPA made plans to obtain detailed sampling data from one bleached kraft pulp and paper mill to determine the source of the dioxin. Before sampling took place, industry representatives urged EPA to expand the study from one to five mills. The industry agreed to fund a portion of the project and to supply detailed process information for each mill selected for study. In June 1986, EPA and industry representatives entered into an agreement for a cooperative screening study, often referred to as the Five-Mill Study. Full-scale sampling started in June 1986 and ended in January 1987. Two compounds, TCDD and 2,3,7,8-tetrachlorodibenzofuran (TCDF), were detected in the effluents of four of the five mills, the pulps of all five mills, and the wastewater treatment plant sludges of all five mills (U.S. EPA, "U.S. EPA/Paper Industry Cooperative Dioxin Screening Study," Office of Water Regulations and Standards, Washington, DC 20460, EPA 440/1–88–025, March 1988).

4. 104-Mill Study

After reviewing the results from the Five-Mill Study, EPA determined that information was needed from all chlorine-bleaching facilities to assess if dioxin was being formed at all mills using chlorine-containing compounds and to determine how dioxin was being generated. Again, industry representatives expressed interest in cooperating voluntarily to gather additional data. An agreement was drafted in late 1987. After the Office of Management and Budget approved the cooperative data collection activities, the agreement was signed on April 25, 1988, and 104 mills agreed to participate. This study provided EPA with dioxin and furan analytical results in effluents, sludges, and pulps along with detailed bleach plant process information and data on wastewater treatment system operation and sludge disposal practices. These types of information had not been collected for this industry since 1976 so the 104-Mill Study provided EPA with valuable data representative of pulp and paper mill operations operating in 1988 (U.S. EPA, "U.S. EPA/Paper Industry Cooperative Dioxin Study—the 104-Mill Study—Summary Report," Office of Water Regulations and Standards, Washington, D.C. 20460, July 1990).

5. National Study of Chemical Residues in Fish

After the Five-Mill Study, EPA initiated a study to determine whether fish tissue was contaminated by pollutants of concern, including dioxins and furans. Pulp and paper mills using chlorine to bleach pulp appeared to be the dominant source of TCDD and TCDF. Statistical comparisons show that fish near pulp and paper mills using chlorine have significantly higher concentrations of TCDD than all other source categories (U.S. EPA, "National Study of Chemical Residues in Fish," Office of Science and Technology, Washington, DC 20460, EPA 823–R–92–008a, September 1992).

6. Air Emission Findings

EPA has long known that pulp and paper mills emit chlorine and chloroform to the air. In the 1980's, the Agency attempted to get chloroform listed as a hazardous air pollutant (HAP), due to its carcinogenicity, under sec. 112 of the 1977 Amendments to the CAA. After the 1990 Amendments to the CAA, the pulp and paper industry was listed as a category of major sources of hazardous air pollutants because of the known presence of chlorine, chloroform, and other metallic HAPs in pulp mill emissions. In addition, pulp mills are known to be a source of odor due to total reduced sulfur (TRS). TRS would be controlled as a result of a NESHAP. National baseline emissions of HAP from the pulp and paper industry are estimated to be 172,000 Mg per year.

7. Dioxin Reassessment

In the Spring of 1991, EPA undertook a reassessment of the risk of dioxin. As part of this reassessment, EPA is examining the mechanisms by which dioxin apparently causes a variety of

adverse effects in animals and humans, including cancer, reproductive effects, developmental effects, and effects on the immune system. EPA's regulatory programs are proceeding uninterrupted during the preparation of the reassessment. Findings of the reassessment are scheduled to be published in mid-to-late 1994.

F. Summary of Public Participation

During the data gathering activities that preceded development of the proposed rules, EPA met regularly with representatives from the industry and environmental groups, and these contacts are discussed in section VIII. During the development of the proposed regulations, EPA continued to meet with interested parties on a regular basis. Between September 1992 and June 1993, EPA sponsored five public meetings, where the Agency shared information about the content and the status of the regulations. The public meetings also gave interested parties an opportunity to provide information, data, and ideas on key issues. EPA's intent in conducting these public meetings was to elicit input that would improve the quality of the proposed regulations.

The meetings were announced in the **Federal Register**, and agendas and meeting materials were mailed to interested parties before the meetings or distributed at the meetings. An extensive mailing list was developed from meeting attendee lists and telephone calls to the Agency. The information presented at each meeting corresponded to the stage of regulatory development and the status of the data analysis at the time of the meeting.

At the first public meeting, the Agency clarified that the public meetings would not replace the notice-and-comment process, nor would the meetings become a mechanism for a negotiated rulemaking. While EPA accepted information and data at the meetings and made good faith efforts to review all information and address all issues discussed at the meetings, EPA could not commit to fully assessing and incorporating all comments into the proposal. EPA will assess all comments and data received at the public meetings prior to promulgation.

In addition to the five public meetings, EPA met with interested parties and conducted telephone conference call meetings to discuss specific issues on many occasions during regulatory development. As a result of these public participation activities, the Agency learned of several technical issues that were not completely resolved or documented prior to this proposed rulemaking. Hence, the Agency is requesting data and comment on several issues that were introduced during the public participation activities (see section XIII). Many materials concerning the public meetings are included in section 15.0 of the water docket.

VI. Integrated Regulatory Development Under the Clean Water Act and the Clean Air Act

This section describes the Agency's approach for developing regulations applicable to the pulp and paper industry jointly under the CWA and CAA. (As stated previously, the CWA regulations proposed today are known as effluent limitations guidelines and standards; the CAA regulations are known as national emissions standards for hazardous air pollutants). The Administrator developed these proposed regulations jointly to provide greater protection of human health and the environment, reduce the cost of complying with both sets of rules, promote and facilitate coordinated compliance planning by industry, promote and facilitate pollution prevention, and emphasize the multimedia nature of pollution control.

In developing these regulations, EPA first collected information about the industry, next developed control technology bases for the effluent limitations and air emission standards to meet the separate statutory requirements of the CWA and the CAA, and then analyzed the impacts of various combinations of control technologies as the bases for effluent limitations and air emissions control. The total environmental and economic impacts of basing limitations and standards on these control technologies were estimated.

A. Background

The pulp and paper industry releases significant amounts of pollutants to ambient air, surface waters, POTWs, and wastewater treatment sludges. Section V of this notice discusses in greater detail the separate components of EPA's regulatory efforts to address these pollutant releases, including revised effluent limitations guidelines and standards under the CWA, NESHAP under the CAA, and regulations on the land application of pulp and paper mill sludge under the TSCA and the RCRA.

In 1990, EPA established the Pulp and Paper Regulatory Cluster, which is composed of representatives from most EPA offices. One role of the Pulp and Paper Regulatory Cluster is to identify optimal approaches to solving environmental problems associated with the pulp and paper industry through regulatory coordination. Pursuant to the Cluster initiative, today's notice is a joint proposal of CWA effluent limitations guidelines and CAA NESHAP for the pulp and paper industry. A third effort under the Cluster initiative—regulation of land application of pulp and paper mill sludge—was also included in the Agency's coordinated regulatory strategy, as explained in section V.C.1.

The air emission standards proposed today would not regulate all HAP emission points within the source category. The air emission standards, however, do address the emission points that are affected by the use of process changes—that is, noncombustion points at mills that chemically pulp wood fiber. Proposing these standards jointly with the effluent standards thus allows consideration of process changes as a control strategy for reducing discharges of both water and air pollutants. CAA standards for the remaining portion of the pulp and paper source category will be proposed separately. EPA plans to propose standards for the combustion emission points at chemical pulping processes approximately one year after today's proposal and promulgate them together with the standards for the noncombustion emission points and the effluent guidelines limitations.

B. Goals

EPA has several technical and policy goals for coordinating the development of the effluent limitations guidelines and the NESHAP. These goals include: (1) Protecting the public health and the environment by attaining significant reductions in pulp and paper industry pollutant releases to all media; (2) reducing the cost of complying with both sets of rules; (3) promoting and facilitating coordinated compliance planning by the industry; (4) promoting and facilitating pollution prevention; and (5) emphasizing the multimedia nature of pollution control. The Agency believes these goals were served by the coordinated development of these rules.

C. Technical Approach

1. Coordinated Information Collection

The first step in developing the joint regulations was to develop a mill-specific database of all facilities subject to both sets of standards. As described in Section VIII of this notice, EPA utilized information from a number of sources, including its wastewater sampling program, air emissions testing program, 1990 census questionnaire, and API/NCASI 1992 voluntary

questionnaire, to develop the integrated regulations. The information collected includes the processes and control technologies in use, current control levels, and pollutant releases. The Agency recognizes that the industry is dynamic, and that processes and equipment change over time. Therefore, survey data were updated through telephone calls and letters to ascertain that the database reasonably reflects the current status of the industry. EPA will consider information and data submitted in a timely manner by interested parties in response to this proposal for the purpose of updating the database prior to promulgation. The Administrator is aware that the industry is currently conducting a sampling program, and will consider the results of this program in developing the final regulations to the extent that they are available in a timely manner.

Information collected about the industry was placed into a mill-specific database. EPA then developed an integrated database system to analyze the impacts of implementing the combined effluent limitations guidelines and NESHAP. The integrated database system, which is described in the BID, uses the mill-specific database and other components to calculate national baseline air emissions and wastewater discharges, and national pollutant reductions and costs of the effluent limitations and air emission control options. It contains information on all mills in the industry and was developed using information from EPA's wastewater sampling program, emissions testing program, 1990 census questionnaire, API/NCASI survey, and other sources. This comprehensive information provides a strong basis for ensuring that the proposed regulations meet the statutory requirements, and allows consideration of other factors such as coordinated compliance planning and multimedia pollutant reduction.

2. Development of Effluent Limitations and Air Emissions Control Technology Options

After evaluation of control technologies and their use in the industry, EPA selected potential BAT, PSES, BPT, BCT, NSPS, PSNS, and MACT control technology options, as well as BMP; this process is described in Sections IX and X of this notice. Process change options were selected as the basis for proposed BAT and PSES limitations in all cases because they are the most effective and economically achievable controls for toxic and nonconventional pollutants. Combustion, wet scrubbing, and steam stripping were selected for the basis of the proposed MACT standards because they are the best system of emission limitation considering the costs, non-air quality health and environmental impacts, and energy requirements. Proposed BPT limitations to reduce conventional pollutant effluent loadings are based on wastewater flow controls and improvements to wastewater treatment systems. The proposed BMP are based on pulping and black liquor spill prevention and control.

3. Analyses of Multiple Integrated Air and Water Regulatory Alternatives

A series of analyses were conducted to assess the impacts of various combinations of BAT, PSES, BPT, BCT, NSPS, PSNS, and MACT control options, as well as BMP. EPA developed regulatory alternatives based on pollution-preventing process changes alone, air emissions control alone, and combinations of process changes and air emission controls. Each regulatory alternative also included a flow control and wastewater treatment component comprising the BPT technology basis, and a BMP component based on pulping and black liquor spill prevention and control. The projected effluent loadings and air emissions resulting from these integrated regulatory alternatives were compared to baseline pollutant releases. Control costs and other environmental and economic impacts for each alternative above the baseline level of control were also estimated. These analyses were used to determine the combined effect of the process changes, air controls, improvements to wastewater treatment, and best management practices. The alternatives were designed to evaluate the most efficient application of control technologies and to minimize the cross-media transfer of pollutants between water and air.

EPA evaluated whether pollution-preventing process changes, such as those selected as the control basis for BAT and PSES, reduce HAP emissions sufficiently to satisfy the CAA requirements. Based on available data, the analyses showed that use of process change technologies reduces emissions of some HAPs, but increases others. Specifically, process change technologies decrease emissions of chlorinated HAPs, including chloroform, chlorine, and hydrochloric acid. This decrease in air emissions of chlorinated HAPs is believed to be attributable to the elimination of hypochlorite as a bleaching agent and to increasing levels of chlorine dioxide substitution in the process changes considered. However, air emissions of some nonchlorinated HAPs, including methanol, methyl ethyl ketone (MEK), and formaldehyde, show modest increases as a result of those process changes. These patterns in air emissions were observed for the range of process change control options evaluated as possible technology bases for BAT and PSES. EPA concluded that process change technologies alone do not adequately control HAP emissions to the air, and that air control technologies in addition to the process changes are needed to achieve HAP emission limitations required by the CAA. EPA requests comments and data on air emission trends associated with elimination of hypochlorite, chlorine dioxide substitution, and oxygen delignification.

EPA also considered the effect of steam stripping process wastewater streams on water and air pollutant releases, as it is recognized as a control device that reduces both conventional effluent pollutant loadings and HAP emissions. The analyses showed that flow reduction and wastewater treatment system improvements would be needed for some mills to reduce BOD and TSS discharges to comply with proposed BPT limitations based on the best performing 50 percent of mills with advanced biological treatment. However, steam stripping also contributes to BOD removal.

A third consideration was the effect of the air controls on effluent loadings of toxic and nonconventional pollutants. The analyses showed that air controls did not significantly affect effluent loadings of toxic and priority pollutants. Combustion destroys most compounds emitted from process vents, thus reducing the amount of pollutants that could enter surface waters due to deposition. Chlorinated HAPs remaining after the process changes react with the caustic in the scrubber, neutralizing the caustic effluent. Non-chlorinated HAPs that absorb into the caustic are biodegradable, and are not estimated to significantly increase the pollutant load to the wastewater treatment system. Steam stripping systems remove compounds from wastewater streams, and the removed compounds are destroyed in a combustion device.

D. Results

The analyses of multiple integrated regulatory alternatives showed that there is no single control technology currently available that reduces pollutant discharges to the water and air to the levels required by the respective statutes. The demonstrated control technologies that can serve as the bases

for BAT, PSES, NSPS, PSNS, and BPT limitations pose no significant adverse impacts to and have some benefits for air quality. Similarly, the air control technologies that can serve as the basis for the NESHAP standards pose no significant adverse impacts on and have some benefits for water quality. Therefore, combining the best control technology options for effluent limitations with the best control technology options for the air emission standards represents a reasonable method for constructing the integrated regulatory alternative.

EPA selected control options for the BAT, PSES, and BPT limitations and the NESHAP are based on evaluation of pollutant reductions, costs, cost effectiveness, and economic, environmental, and energy impacts. Prior to selection of the proposed rules, an integrated regulatory alternative comprising the sum of the proposed control options for the four standards was constructed. Impacts of the combined standards, including pollutant reductions, costs, cost effectiveness, and economic, environmental, and energy impacts, were then assessed. This coordinated evaluation ensures that today's proposed regulations fully satisfy all the relevant statutory requirements while minimizing cross-media pollutant transfer, encouraging the use of pollution-preventing process changes, and ensuring the greatest environmental benefit for the pollution control costs. Specific results of the Agency's evaluation and the selected integrated regulatory alternative are presented in Section XI of this notice.

VII. Description of the Industry

A. Pulp and Paper Manufacturing Facilities

Presented below is a brief summary description of the pulp, paper, and paperboard industry. Other descriptive characteristics of the industry are detailed in sections IX.B., IX.C., IX.D., and IX.E. of this notice; chapter 4.0 of the technical water development document; and in the NESHAP Background Information Document (BID). Based upon responses to EPA's 1990 National Census of Pulp, Paper, and Paperboard Manufacturing Facilities, the Agency estimates that there are approximately 565 manufacturing facilities located in 42 States. The major pulp production areas in the U.S. are the Southeast, Northwest, Northeast, and Northern Central regions, due to availability of fiber furnish and processing facilities.

The 565 manufacturing facilities that EPA has considered for regulation comprise either integrated pulp and paper mills, where pulp is manufactured on-site from virgin wood fiber, secondary fiber, or non-wood fiber; or, non-integrated paper mills where only paper or paperboard products are manufactured from purchased pulp or pulp produced elsewhere. There are approximately 290 integrated pulp and paper mills and 275 non-integrated paper mills.

B. Manufacturing Processes

1. Raw Materials

There are four major types of fiber furnish used for papermaking: (a) Hardwood; (b) softwood; (c) secondary fibers (recycled fiber); and (d) non-wood fibers. Pulps produced from hardwood trees (oak, maple, birch, beech, and others) contain relatively short fibers, which produce pulps of higher density. Pulps produced from softwood trees (pine, spruce, hemlock, and others) contain longer fibers, which produce pulps of greater strength. Many papers are made from blends of hardwood and softwood pulps to take advantage of softwood pulp strength and hardwood pulp density. About twice as much softwood pulp is produced in the U.S. compared to hardwood pulp.

Wood pulp is manufactured from trees brought to the pulp mill in the form of logs ("round wood"), or in the form of wood chips. Sawdust from saw mills is also used as a fiber furnish. At most mills, the tree bark is removed from round wood using mechanical debarkers. The debarked logs are then mechanically chipped, sized and stored in piles prior to pulping.

"Secondary fibers" is the term used to apply to furnish obtained from the recycle of waste papers and paperboard. Depending upon waste paper segregation and processing, secondary fibers can be converted into most grades of finished paper. Examples of non-wood fibers include cotton, sugar cane waste called bagasse, flax, and hemp. Non-wood fibers are most often used to produce low volume, specialty grades of paper. Certain plastics and latexes are also used for specialty papermaking.

2. Pulping Processes

In 1992, as reported by the American Forest and Paper Association, U.S. pulp and paper industry produced 90.7 million tons of pulp by the following processes: (a) Chemical Pulp (60.3 percent); (b) Secondary Fiber Pulp (28.0 percent); (c) Mechanical Pulp (7.2 percent); and (d) Semi-Chemical Pulp (4.5 percent). The principal distinguishing characteristics and the major products associated with each pulping process are briefly described below and are reviewed in detail in the technical water development document.

Chemical pulping processes are carried out using concentrated chemical solutions at high temperature and under pressure. The processes are characterized by chemical pulps with relatively low yield and pure fibers that impart particular properties that are important to high grade products. Examples of chemical pulping processes are kraft, soda, and sulfite. Extensive chemical recovery cycles or byproducts production are necessary for economical operation of chemical pulp mills. Modifications of the kraft and sulfite pulping and bleaching processes are used to produce "dissolving" grades of pulp for manufacture of selected products where a high purity of alpha cellulose and the virtual absence of lignin is desired.

Secondary fiber pulping is carried out mechanically where waste paper and board products are solubilized in water. Impurities (e.g., staples, clips, plastics, adhesives) are removed by various cleaning steps, depending upon the grade of wastepaper processed and the product's end use. If secondary fiber pulps will be used for the manufacture of printing grades of paper, the pulp must also be deinked by chemical and mechanical methods. The grades of paper and paperboard produced from recycled papers or wastepapers are highly dependent upon the quality of the wastepaper.

Often, pulps are produced at integrated pulp and paper mills by more than one method. Pulps are blended to take advantage of the various properties of specific pulps. Because of the increasing trend for use of recycled paper products, secondary fiber is used to augment the virgin wood fiber supply at many chemical pulp mills. Market pulp mills are those where pulp is produced to customer specifications for sale in this country or exported. Usually, only one type of pulping process is used at each market pulp mill. Market bleached kraft pulp is the predominant grade of market pulp produced in the United States.

Mechanical pulping is conducted by mechanical energy, with little or no use of chemicals and moderate or no use of heat. The process has high yield and results in short, impure fibers that exhibit good print quality. It is generally not feasible to produce highly bleached mechanical pulp. Examples of mechanical pulps are stone groundwood, refiner mechanical, and chemi-thermo-mechanical pulps.

Semi-Chemical pulping is conducted with combinations of chemical and mechanical treatments. The processes have intermediate yields and result in pulps with a wide range of properties depending upon the degree of mechanical and chemical methods used. A common semi-chemical pulping process is the Neutral Sulfite Semi-Chemical process used to produce corrugating medium. Some mills use only chemical pulping.

3. Pulp Bleaching

Pulps may either be used to produce unbleached final products from the pulping process, or pulps may be chemically bleached to desired levels of brightness for the production of other products. Bleached pulps are used for products where high purity is required and yellowing (or color reversion) is not desired (e.g., printing and writing papers, food contact papers, sanitary paper products). Unbleached pulp is typically used for production of boxboard, linerboard, and grocery bags.

Bleaching is used to whiten pulp by chemically altering the coloring matter and to impart a higher brightness. The selection of wood type for pulping, the pulping process used, and the desired qualities and end use of the paper product greatly affect the type and degree of pulp bleaching required. There are two basic methods to increase the brightness of pulps. The first is to use selective bleaching agents that destroy some of the colored compounds, without significantly reacting with lignin, which binds wood fibers together. This method is used to brighten pulps with high lignin content such as groundwood and semi-chemical pulps. High brightness values are difficult to achieve without delignification, and significant delignification of these pulps is not desirable due to the negative impact on yield. The second method of bleaching includes complete or near-complete removal of the lignin remaining after chemical pulping, followed by further bleaching of the pulp to a desired degree of brightness. The latter method is used to bleach kraft, soda and sulfite pulps to higher brightness levels.

In recent years there has been a major trend in the industry toward reducing both the types and amount of chlorine and chlorine-containing chemicals used for pulp bleaching. Most of these changes have occurred as a result of product quality considerations and environmental concerns about the presence of dioxins and other chlorinated compounds in pulp and paper products resulting from the bleaching of pulps with chlorine and chlorine-containing compounds. At many mills, chlorine dioxide is being used in first stage of bleaching in place of some or all of the chlorine; use of hypochlorite has diminished in response to concerns about chloroform emissions; and significant efforts have been made by many mill operators to improve delignification prior to bleaching to minimize bleach chemical usage and the attendant formation of unwanted chlorinated by-products. At this writing, commercial production of market grades of high brightness bleached softwood kraft pulp has not been achieved without the use of any chlorine or chlorine derivatives. Totally chlorine free bleaching of selected market grades of sulfite pulps has been demonstrated in Europe.

4. Paper Making

Depending upon end use, unbleached or bleached pulp is processed by beating and refining prior to papermaking. Chemicals are also added to impart specific properties to the finished product.

VIII. Summary of Data Gathering Efforts

A. Wastewater Sampling Program

This section presents a brief overview of EPA's wastewater sampling program. Details of this data gathering effort are presented in Chapter 3.2 of the technical water development document. Also, findings from EPA's sampling program are discussed in section IX.B. of this notice. Detailed support documentation can be found in section 7.5 of the public record for the effluent limitations. During the development of the proposed rules, the Agency conducted two wastewater sampling programs consisting of 13 short-term studies and a long-term study.

1. Short-Term Studies

The Agency conducted 13 short-term sampling episodes from 1988 through mid-1993. The first three sampling episodes, performed in 1988, served as screening episodes and allowed the Agency to narrow the list of pollutants to be examined during future episodes. During these first three episodes, samples were analyzed for the following groups of analytes: Chlorinated dioxins and furans, chlorinated phenolics, volatile organics, semi-volatile organics, pesticides/herbicides, metals, conventional pollutants (BOD_5 and TSS), and nonconventional pollutants (COD and TOX). Subsequently, EPA conducted ten short-term sampling episodes between 1989 and 1993. During these episodes, samples were analyzed for a limited set of analytes: Chlorinated dioxins and furans, chlorinated phenolics, volatile organics, BOD_5, COD, TSS, TOX, and AOX. Mills were selected for participation in the short-term sampling program because they utilized particular pulping or bleaching technologies, wastewater treatment, or fiber furnishes.

At each mill sampled in the period 1988 through 1990, sampling points were selected to characterize wastewater discharges from various process areas (brownstock wash water, bleach plant filtrates, and paper machine white water), mill exports (final effluent, pulp, and sludge), the performance of the wastewater treatment system (one or more influents and effluents), and mill process water and brownstock pulp. For the sampling episodes that occurred in 1992 and 1993, the sampling points were limited to bleach plant filtrates, bleached pulp, and wastewater treatment system samples.

Data obtained from the short-term sampling program provided EPA with valuable information about mill operations and pollutant discharges during the period from 1988 to 1993. One important finding was that, since 1988, many mills made process technology and/or operating changes in the bleach plant intended to reduce the formation of dioxins, furans, and other chlorinated pollutants. Some data from the short-term study were used to develop the effluent limitations and standards proposed today.

2. Long-Term Study

The Agency's long-term study was undertaken to generate the data necessary for developing effluent limitations and standards. The study was a cooperative effort between EPA and the industry. Representing the paper industry, the American Paper Institute (now the American Forest and Paper Association, or AFPA) and the National Council of the Paper Industry for Air and Stream Improvement, Inc. (NCASI) cooperated with EPA in substantially expanding the scope of the Agency's study. In particular, AFPA and NCASI coordinated and conducted the expanded collection and analysis of data from four mills selected by the Agency to an additional four mills selected by the industry, for a total of eight pulp and paper mills. In addition, the scope of the study was expanded to cover two nine-week periods (summer 1991 and winter 1991–1992).

These eight mills were selected to participate in the long-term study sampling program because they utilized particular pulping or bleaching technologies, wastewater treatment, or

fiber furnishes. At each mill, sampling points were selected to characterize the bleach plant effluent, plant exports (final effluent, pulp, and sludge), and the performance of the wastewater treatment system. Bleach plant effluents were characterized by collecting samples that represent the total discharge from a bleach line, typically an acid filtrate (or acid sewer) and an alkaline filtrate (or alkaline sewer) and other filtrates that may be discharged separately. Mill process water, the influent and effluent from wastewater treatment, bleached pulp, and wastewater treatment sludge were also sampled. EPA analyzed for the following pollutants: Volatiles, dioxins and furans, chlorinated phenolics, AOX, BOD_5, TSS, and color. AOX, BOD_5, TSS, and color were analyzed only in influent to and effluent from wastewater treatment.

Samples were collected during one 24-hour period each week for nine weeks in the summer of 1991 and each week for nine weeks in the winter of 1991–1992. Each week, mill personnel were responsible for collecting the samples, and accurately reporting wastewater flow, bleached pulp production, and mill operating conditions. Detailed sampling plans were prepared by the Agency and reviewed with mill personnel prior to the first week of sampling. NCASI and EPA-contractor staff were on-site during the first week of sampling at each mill during the summer program. The Agency audited sampling performance in the eighth or ninth week of the summer program, and again during the winter program to assess whether mill personnel were following the site-specific sampling plans. Summer and winter program audit reports were prepared for each mill. These reports generally contain confidential business information (CBI) pertaining to mill operations during the study. At the conclusion of the study, a non-confidential audit report was prepared to summarize audit results from both the summer and winter programs for all eight mills. These reports are contained in section 7.5.2 of the public record supporting the proposed effluent limitations. The audits uncovered relatively few significant deviations from established sampling and sample handling protocols.

The Agency and NCASI jointly reviewed the quality of the long-term study analytical data. Analytical data that did not meet appropriate criteria were further studied or excluded from EPA's database. An engineering review of the data was also conducted, and based upon that review, certain additional data were excluded. For example, all data for trichlorofluoromethane and some data for methylene chloride were excluded from the database because it appeared that the presence of these compounds in some samples was due to contamination during sampling, preservation, shipping, or analysis. Overall, a small portion—approximately 6 percent—of the analytical determinations were excluded from the database because the data failed to meet analytical method QA/QC requirements. The long-term study provided the Agency with the analytical data and mill information necessary for the development of the effluent limitations and standards proposed today. Detailed information concerning the long-term study, including the engineering review of the data, can be found in section 7.5.2 of the public record in the water docket.

B. 1990 National Census of Pulp, Paper, and Paperboard Manufacturing Facilities

In early 1989, EPA began to develop a questionnaire to gather the technical and financial information necessary for rulemaking. EPA met with industry representatives and environmental groups during the questionnaire development process in an effort to keep these parties informed of the Agency's plans and to solicit informed comments on questionnaire design. In July 1989, EPA shared a preliminary draft of the questionnaire with representatives of the pulp and paper industry to obtain a technical review of terminology. Between late August 1989 and November 1989, EPA met several times with industry representatives to discuss the draft questionnaire. The Agency benefitted from industry's comments by making improvements to the clarity and organization of the questions.

EPA sent a pre-test version of the questionnaire to nine mills on December 6, 1989 and subsequently reviewed each mill's experience in completing the questionnaire. All responses from the pre-test were received by mid-February 1990, and the questionnaire was again revised after further discussions with industry representatives and pre-test participants. A copy of the pre-test questionnaire was supplied to environmental groups, and comments received were incorporated as appropriate.

On May 2, 1990, EPA submitted the questionnaire and a supporting statement to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act, and the questionnaire was distributed in October 1990.

The questionnaire was administered as a census to all pulp and paper manufacturing facilities. The census requested the following information: process and production data; data on water use, waste characteristics, and current wastewater treatment operations; wastewater treatment sludge disposal practices data; air emissions data; information on the potential for worker exposure to dioxin; and financial and economic information.

In October and November, 1990, EPA sent letters to each respondent containing clarifying instructions to the questionnaire. EPA also participated in two workshops sponsored by the industry in late October and early November, 1990, to assist pulp and paper mill staff in responding to the questionnaire.

Materials supporting the development of the questionnaire can be found in Section 3.1 of the public record in the Office of Water Docket. These materials include correspondence with industry representatives, environmental groups, and OMB; meeting reports; preliminary drafts of the questionnaire; and the information collection request package submitted to OMB.

C. Data Gathering Activities for Air Emission Standards

EPA used three types of technical information for development of the NESHAP: (1) A voluntary survey of mills that chemically pulp wood fiber conducted by an industry trade association, (2) review of existing information pertaining to the pulp and paper industry, including existing State and local regulations; and (3) results of an EPA sampling program. These information sources are described further below.

1. API/NCASI Voluntary Mill Survey

In 1992, API (now the American Forest and Paper Association)/NCASI conducted a voluntary survey of mills that chemically pulp wood fiber. Information from this survey was used to determine baseline controls and components of the MACT regulatory floor. There were 124 responses to the survey, which included information on wood pulping, bleaching, papermaking, and combustion processes.

The survey was designed to obtain information on pulping and bleaching processes, control technologies, and emissions at the mills. The survey requested information related to atmospheric emissions from (1) chemical pulping and recovery vent gases; (2) incineration devices for non-condensible gases (NCGs); (3) steam and air strippers; (4) tall oil acidulation; and

(5) bleach plants. In addition, information was requested related to process waters and wastewaters generated in the pulping area and bleach plant. A discussion of specific information obtained by this survey is included in the BID.

2. State and Local Regulations

Information was gathered on existing State and local regulations, permits, and permitting requirements for pulp and paper mills. This information was used to supplement the voluntary survey information for baseline control levels for air emissions from kraft, soda, sulfite, and semi-chemical mills. All ten EPA regions were contacted to identify the States with the most active pulp and paper facilities. Seventeen States were found to have regulations specific to the pulp and paper industry.

Information obtained included data on the pollutants and emission sources covered, emissions limits and/or control methods specified, and type of compliance monitoring required.

3. Sampling and Analytical Program

The sampling and analytical program included detailed testing of air and liquid samples from pulp and paper mills that chemically pulp wood fiber. The program was conducted to gather data to characterize HAP emission points within the pulp and paper industry and to develop emission factors for these points. In addition, the sampling program was conducted to evaluate the effectiveness of various controls under consideration for MACT.

Air emission samples were collected from pulping and bleaching unit process vents and liquid samples were collected from process streams from five mills. The five mills included three kraft mills, one kraft and semi-chemical mill, and one sulfite mill. The sampling and analysis program and its results are described in the BID.

EPA is aware that the NCASI is presently conducting an industry sampling program that they initiated in the Fall of 1992. Vent gas samples, process liquid samples, and process wastewater samples are being collected from a variety of pulping and bleaching process units. Corresponding process information to determine what relationship might exist between process parameters and air emissions is also being gathered. The NCASI sampling program consists of 13 kraft, two sulfite, and at least one stand-alone semi-chemical mill. As of August 1993, NCASI had completed testing at approximately nine of the selected mills. NCASI has indicated that they plan to provide the test data reports to the Agency as they become available. They anticipate that all of the test data reports should be completed and made available to the Agency by mid to late 1994. The Agency plans to consider this data for the promulgation of the NESHAP.

IX. Development of Effluent Limitations Guidelines and Standards

A. Industry Subcategorization

1. Introduction

In developing today's proposed regulations, EPA considered whether different effluent limitations and standards were appropriate for different groups of mills or subcategories within the industry. Factors considered included: processes employed, effluent characteristics, costs, age of equipment and facilities, size, location, engineering aspects of the application of various types of control techniques, process changes, and non-water quality environmental impacts. In determining which subcategories were appropriate for these proposed regulations, EPA first assessed subcategorization under the effluent guidelines currently applicable to this industry using recently available data.

2. Current Subcategorization

The current subcategorization of this industry dates to 1974, and was developed using data from the early- and mid-1970's. The current subcategories are as follows:

40 CFR Part 430

Subpart A Unbleached kraft
Subpart B Semi-chemical
Subpart D Unbleached kraft-neutral sulfite semi-chemical (cross recovery)
Subpart E Paperboard from wastepaper
Subpart F Dissolving kraft
Subpart G Market bleached kraft
Subpart H Board, coarse, and tissue (BCT) bleached kraft
Subpart I Fine bleached kraft
Subpart J Papergrade sulfite (blow pit wash)
Subpart K Dissolving sulfite pulp
Subpart L Groundwood-chemi-mechanical
Subpart M Groundwood-thermo-mechanical
Subpart N Groundwood-coarse, molded, and news (CMN) papers
Subpart O Groundwood-fine papers
Subpart P Soda
Subpart Q Deink
Subpart R Nonintegrated-fine products
Subpart S Nonintegrated-tissue papers
Subpart T Tissue from wastepapers
Subpart U Papergrade sulfite (drum wash)
Subpart V Unbleached kraft and semi-chemical
Subpart W Wastepaper-molded products
Subpart X Nonintegrated-lightweight papers
Subpart Y Nonintegrated-filter and nonwoven papers
Subpart Z Nonintegrated-paperboard

40 CFR Part 431

Subpart A Builders' paper and roofing felt

3. Rationale for Changing the Current Subcategorization and Development of the Proposed Subcategorization

During the 20 year period since the current subcategorization was developed, there have been numerous process and wastewater treatment changes in the pulp, paper, and paperboard industry. In addition, EPA and state permit writers have gained much experience implementing the current effluent limitations guidelines and standards for the pulp and paper industry since the regulations were first promulgated. Frequently, those permit writers have found that a single mill will contain processes that fall within two, three or more subcategories. This situation greatly complicates the task of permit writing, requiring considerable additional information gathering, time, and resources. As a result of the foregoing, the Agency analyzed the most recent data from the pulp and paper industry to determine if the revised regulations might appropriately contain fewer subcategories. The first step in the subcategorization analysis was to determine long-term average (LTA) effluent characteristics for the current subcategories. For this analysis, EPA used effluent BOD_5 and TSS loadings supplied in the questionnaire for 1989 by every direct-discharging mill.

During the development of the proposed regulations, EPA received comments concerning the use of effluent characteristics in its subcategorization analysis. Some of these comments urged EPA to use raw waste load, instead of effluent, data for this purpose. In the early-to-mid 1970's, the Agency generally used raw waste load data in its subcategorization analysis because many mills had not installed well-operated wastewater treatment systems and the overall level of wastewater treatment provided by the industry was not consistent among mills with similar manufacturing processes. The raw waste load data were used because end-of-pipe data were not uniformly available. At that time, EPA found that untreated wastewater loadings were highly variable for different processes. As a result, the Agency concluded that untreated loadings provided a reasonable basis to subcategorize the industry because the costs for mills with similar untreated wastewater loadings to achieve uniform effluent levels would be similar.

Since the early-to-mid 1970's, most mills have installed secondary wastewater treatment systems, and end-of-pipe discharge data supplied in the

1990 Census for most mills show that the degree of end-of-pipe wastewater treatment provided by the industry is much more uniform than it was during the 1970's. EPA determined that the subcategorization analysis and its consideration of the factors in CWA section 304(b), especially those specifying processes employed and engineering aspects of the application of various types of control techniques, are more appropriately conducted for the pulp, paper, and paperboard industry using end-of-pipe data than raw waste data because these data accurately represent a mill's ability to comply with effluent limitations and standards and achieve pollutant reductions.

The mills were arranged according to the current subcategorization scheme shown above. In order to assess the effluent characteristics for a specific subcategory, the ideal approach would be to use only those mills with 100 percent of their production in that subcategory. However, the 1990 Census revealed that some subcategories did not have an adequate number of mills with 100 percent production in the subcategory to characterize the effluent characteristics in that subcategory. As a result, EPA determined that, for most subcategories, for the purpose of determining subcategory-specific LTAs, subcategory effluent characteristics were based on mills with 85 to 100 percent production in that subcategory.

In performing its subcategorization analysis, EPA created a database comprised of all mills with wastewater treatment technologies representative of secondary treatment. Examples of mills not included in the database include indirect dischargers, intermittent dischargers, mills with no treatment, zero dischargers, mills with poor performance due to the lack of primary or secondary treatment, and mills that did not operate during significant portions of 1989.

The LTA for BOD_5 and TSS loadings, normalized by production, were then determined for each mill. When EPA reviewed the data for the mills arranged in the current subcategories, there were a number of subcategories with similar production processes, such as market bleached kraft and fine bleached kraft, where the effluent quality was also similar. EPA combined these similar subcategories and evaluated the impact of the other factors specified in CWA section 304(b). None of these factors provided led EPA to conclude that further or different subcategorization would be appropriate. Combinations were not made where effluent quality values were similar but production processes were *not* similar.

EPA also considered removal of toxic pollutants in its subcategorization analysis. In general, the toxic pollutants of concern are discharged by mills that bleach pulp with chlorine-containing compounds. In the proposed subcategorization scheme, EPA separates mills that bleach pulp from mills that do not bleach pulp. The result is that not all mills using similar pulping processes are in the same subcategory, because some bleach pulp and some do not.

EPA recognizes that the current subcategorization scheme for the pulp and paper effluent guidelines and standards has been in effect for many years and is familiar to many industry representatives and others. During the process of developing these proposed regulations, EPA received several specific comments concerning the impacts of consolidating subcategories in the manner proposed today. EPA invites additional comment concerning today's proposed subcategorization scheme. In particular, EPA invites comments on (1) whether any specific subcategories proposed today should be divided into smaller subcategories, and (2) whether any specific subcategories proposed today should be combined to form larger subcategories. Without limiting the foregoing, EPA specifically invites comment on whether the bleached papergrade kraft and soda subcategory should be divided to distinguish between bleached papergrade kraft and soda mills, and whether the dissolving sulfite pulp subcategory should be further subdivided to distinguish between different grades of pulp produced.

4. Proposed Subcategorization and Applicability of Regulations

EPA determined that, based upon recent available data from the mills, the current subcategories could appropriately be combined and reorganized into 12 proposed subcategories. Each of the new proposed subcategories is comprised of mills using similar processes and attaining similar effluent quality. The proposed subcategorization scheme and a comparison of this scheme to the current subcategorization scheme is presented in Table IV.A.1–1 (in the summary discussion of today's rules).

EPA is also proposing to merge the current 40 CFR part 431 subpart A (builders' paper and roofing felt) into the proposed 40 CFR part 430 subpart J, the secondary fiber non-deink subcategory. Detailed information about the subcategorization analysis is presented in section five of the technical water development document. Facilities with production covered by more than one subcategory are subject to the effluent limitations in more than one subcategory as well.

The subcategories of the pulp, paper, and paperboard industry for which regulations are proposed in this rulemaking are defined as follows:

a. *Dissolving Kraft Subcategory (Subpart A).* This subcategory includes production of a highly bleached and purified kraft wood pulp using an alkaline sodium hydroxide and sodium sulfide cooking liquor with acid prehydrolysis. The principal product is a highly bleached and purified dissolving kraft wood pulp used primarily for the manufacture of rayon, viscose, acetate, and other products requiring a high percentage of alpha cellulose and a low percentage of hemicellulose. This subcategory includes production at facilities that manufacture dissolving grade kraft pulps and papergrade kraft pulps at the same site.

b. *Bleached Papergrade Kraft and Soda Subcategory (Subpart B).* This subcategory includes production of a bleached kraft wood pulp using an alkaline sodium hydroxide and sodium sulfide cooking liquor. Principal products include papergrade kraft market pulp, paperboard, coarse papers, tissue papers, uncoated free sheet, and fine papers, which include business, writing, and printing papers.

This subcategory also includes production of bleached soda wood pulp using an alkaline sodium hydroxide cooking liquor. Principal products are fine papers, which include printing, writing, and business papers, and market pulp.

c. *Unbleached Kraft Subcategory (Subpart C).* This subcategory includes production of kraft wood pulp without bleaching using an alkaline sodium hydroxide and sodium sulfide cooking liquor. Principal products include unbleached kraft market pulp, bag papers, and liner board (the smooth facing in corrugated boxes).

This subcategory also includes production of both unbleached kraft and semi-chemical wood pulps at mills with cross-recovery processes. Principal products are similar to those produced at stand-alone unbleached kraft mills and stand-alone semi-chemical mills.

d. *Dissolving Sulfite Subcategory (Subpart D).* This subcategory includes production of a highly bleached and purified sulfite wood pulp using acidic cooking liquors of calcium, magnesium, ammonium, or sodium sulfites. Pulps produced by this process, are used primarily for the manufacture of rayon, cellophane, methyl cellulose, ethyl

cellulose, nitra-cellulose, cellulose acetate, and other products that require a high percentage of alpha cellulose and a low percentage of hemicellulose. This subcategory includes production at facilities that manufacture dissolving grade sulfite pulps and papergrade sulfite pulps at the same site.

e. *Papergrade Sulfite Subcategory (Subpart E).* This subcategory includes production of sulfite wood pulp, with or without brightening or bleaching, using an acidic cooking liquor of calcium, magnesium, ammonium, or sodium sulfites. Principal products include tissue papers, fine papers, newsprint, and market pulp.

f. *Semi-Chemical Subcategory (Subpart F).* This subcategory includes production of pulp from wood chips under pressure using a variety of cooking liquors, including but not limited to neutral sulfite semi-chemical (NSSC), sulfur free (sodium carbonate), green liquor, and Permachem®. The cooked chips are usually mechanically refined. Pulp is produced with or without bleaching. Principal products include corrugating medium, paper, and paperboard. Production of both semi-chemical wood pulp and unbleached kraft wood pulp at the same site using a cross-recovery system is included in the unbleached kraft subcategory.

g. *Mechanical Pulp Subcategory (Subpart G).* During the development of the proposed regulations, EPA frequently referred to Subpart G as the "Groundwood, Chemi-Mechanical, and Chemi-Thermo-Mechanical" Subcategory. EPA then changed the name of subpart G to "Mechanical Pulp" because it characterizes the subcategory more correctly. The same mills that were included in the Groundwood, Chemi-Mechanical, and Chemi-Thermo-Mechanical Subcategory are included in the Mechanical Pulp Subcategory.

This subcategory includes production of stone groundwood, refiner mechanical, thermo-mechanical, chemi-mechanical, and chemi-thermo-mechanical pulps. Mechanical pulps are produced using mechanical defibration by either stone grinders or steel refiners. Thermo-mechanical pulp (TMP) is produced using steam followed by mechanical defibration in refiners. Chemi-mechanical pulp (CMP) is produced using a chemical cooking liquor to partially cook the wood. The softened wood fibers are further processed by mechanical defibration using refiners. Chemi-thermo-mechanical pulp (CTMP) is produced using steam followed by chemical cooking and mechanical defibration in refiners. Principal products include market pulp, newsprint, coarse papers, tissue, molded fiber products and fine papers, which include business, writing, and printing papers.

h. *Non-Wood Chemical Pulp Subcategory (Subpart H).* This subcategory includes production of non-wood pulps from chemical pulping processes such as kraft, sulfite, or soda. Fiber furnishes include textiles (rags), cotton linters, flax, hemp, bagasse, tobacco, and abaca. Principal products include market pulp, cigarette plug wrap paper, and other specialty paper products.

i. *Secondary Fiber Deink Subcategory (Subpart I).* This subcategory includes production of deinked pulps from wastepapers using a chemical or solvent process to remove contaminants such as inks, coatings, and pigments. Deinked pulp is usually brightened or bleached. Principal products include printing, writing, and business papers, tissue papers, newsprint, and deinked market pulp.

j. *Secondary Fiber Non-Deink Subcategory (Subpart J).* This subcategory includes production of pulps from wastepaper without deinking. Pulp is produced with or without brightening. Principal products include tissue, paperboard, molded products, and construction papers. Construction papers may be produced from cellulosic fibers derived from wastepaper, wood flour and sawdust, wood chips, and rags.

k. *Fine and Lightweight Papers from Purchased Pulp Subcategory (Subpart K).* This subcategory includes production of fine and lightweight papers produced from purchased virgin pulps or secondary fiber. Principal products include clay coated printing and converted paper, uncoated free sheet, cotton fiber writing paper and thin paper, and lightweight electrical papers.

l. *Tissue, Filter, Non-Woven, and Paperboard From Purchased Pulp Subcategory (Subpart L).* This subcategory includes production of paperboard, tissue papers, filter papers, and non-woven items from purchased virgin pulps or secondary fiber.

B. Characterization of Wastewaters

This section describes current water use and wastewater recycle practices, and the general characteristics of wastewater, at the 565 mills that manufacture pulp, paper, and paperboard in the U.S. A more detailed presentation can be found in chapter 6.0 of the technical water development document. All pulp and papermaking processes require the use of water; however, specifics for any mill will depend on the mill's combination of raw material, process and product.

1. Water Use

Approximately 1,551 billion gallons of wastewater are generated annually by pulp, paper, and paperboard manufacturers. The pulp and paper industry is the largest industrial process water user in the U.S. Water use in the industry has decreased approximately 30 percent since 1975, reflecting significant effort by the industry to reduce consumption and increase wastewater reuse and recycle. Sources of wastewater generation from each major process area in the industry are summarized in Table IX.B.1–1 and are discussed below.

a. *Wood Preparation.* Pulp mills that use logs as raw material may use water for one or more of the following purposes to prepare wood for pulping: log conveyance, log washing, and wet debarking. Approximately 31 billion gallons of water per year are used in wood preparation.

b. *Mechanical Pulping.* Mechanical pulping processes use water as a coolant, as a carrier to sluice pulp from the body of the grinder, as a diluent for subsequent pulp screening and cleaning steps, and to wash or pretreat chips. Approximately 16 billion gallons of water per year are discharged from pulping operations at mechanical pulping mills (this does not include wastewater discharged from mechanical pulping operations at mills that also have chemical pulping operations).

c. *Chemical Pulping.* In all types of chemical pulping, wood chips are cooked in a digester in an aqueous chemical solution, at elevated temperature and pressure. Water is used as a solvent for cooking chemicals, as the pulp cooking medium, as pulp wash water, and as a diluent for screening, cleaning, and subsequent pulp processing. Wastewater sources from chemical pulping typically include digester relief and blow condensates, and discharges from open screen rooms, cleaners, deckers, and spills from the digester area in mills with inadequate spill prevention and control systems. Approximately 185 billion gallons of water per year are discharged from pulping operations at chemical pulping mills.

d. *Chemical Recovery.* The recovery of pulping chemicals and heat is an essential component of an economical kraft pulping process. Water enters the recovery cycle with weak black liquor (pulp wash water) from the pulp mill. Most of this water is removed from the black liquor in multi-stage evaporators and then recondensed. The evaporator

condensate is either discharged as wastewater or it may be recycled to the pulp mill, typically to the pulp washers.

During the recovery of kraft pulping chemicals, water is also used to wash the solid precipitates formed in the recovery cycle. Washing recovers sodium- and sulfur-containing compounds from green liquor dregs and lime mud. This weak wash is reused in the recovery cycle to dissolve recovery furnace smelt. Excess weak wash is discharged as wastewater. Approximately 121 billion gallons of water per year are discharged from chemical recovery processes at kraft mills.

Although recovery of pulping chemicals is not as extensively practiced at mills that use sulfite pulping, sulfite pulp wash water (weak red liquor) is evaporated, generating an evaporator condensate wastewater. Approximately 7.5 billion gallons of water per year are discharged from chemical recovery processes at sulfite mills.

e. *Wastepaper Processing.* In processing wastepaper, the paper is mixed with water to form a dilute slush. In this slush, pulp particles can be separated from undesirable contaminants by physical-chemical means. When deinking is not necessary, the contaminants are removed by physical means (e.g., sedimentation, flotation, and filtration). The wastewater that contains contaminants is further treated to remove or concentrate the contaminants and the recovered process water is reused. Deinking requires the addition of surfactant chemicals such as detergents, dispersants, and foaming agents to facilitate the physical separation of ink particles from fiber. Approximately 31 billion gallons of water per year are discharged from non-deinking wastepaper processing; 33 billion gallons of water per year are discharged from deinking wastepaper processing.

f. *Bleaching.* Pulp bleaching is a staged process that uses different chemicals and conditions in each stage, with washing performed between stages. Washing removes bleaching chemicals and any wood components extracted during bleaching. Chlorine-containing compounds are the most widely used bleaching chemicals. Water is used as pulp wash water and in the preparation of bleaching chemicals. The high chloride content of bleaching wastewaters makes them incompatible with pulping chemical recovery processes so they are discharged as wastewater. Approximately 326 billion gallons of water per year are discharged from bleaching operations.

g. *Pulp handling and papermaking.* In preparation for papermaking, pulp is suspended in water, mechanically conditioned in beaters or continuous refiners, and chemicals are added. Water is added to further dilute the pulp and transport it to the paper machine. Water that drains from the wet end of the paper machine is known as white water, and it is normally captured and reused in stock preparation or on the machine, after some removal of entrained solids. Excess white water is reused in other parts of the paper mill. Mills that make paper from purchased pulp have fewer operations in which to reuse wastewater than mills that pulp wood on-site. Approximately 62 billion gallons of wastewater per year are discharged from pulp handling operations; 574 billion gallons per year are discharged from papermaking operations.

2. Wastewater Discharge

The majority of wastewater discharge (37 percent) is from paper/paperboard making. Bleaching and pulping also contribute major portions of the wastewater flow discharged by the industry (21 and 16 percent, respectively). Information obtained from the 1990 Census showed that, of the 1,551 billion gallons of wastewater generated in 1989 by the pulp and paper industry, 91 percent was discharged directly, 9 percent was discharged indirectly, and approximately 1.1 billion gallons of wastewater was disposed of by on-site land application. Of the 565 mills operating in December 1992 in the U.S., 319 are direct dischargers, 203 are indirect dischargers, six discharge both directly and indirectly, and 37 discharge no wastewater.

Of the 37 mills that discharge no wastewater, nine dispose of wastewater by land application, while 28 achieve zero discharge through 100 percent recycle. Of the mills that achieve zero discharge through 100 percent recycle, one produces paperboard from purchased virgin semi-chemical pulp. The other mills that achieve 100% recycle produce a variety of products from non-deinked secondary fiber: 21 produce paperboard, builders paper or roofing felt, and six produce other products. However, the Agency was unable to confirm its data concerning the discharge status of the six mills making these other products. The mills that achieve 100 percent recycle do so by segregated cleaning, screening, and reuse of wastewater within the process area where the wastewater is generated. In addition, the mills recycle recovered wastewater between process areas.

Pulp and paper mill wastewaters dominate the flow into certain POTWs in the U.S. At these "industrial" POTWs, either flow or BOD_5 load or TSS load from a pulp, paper, and paperboard category source is equal to or greater than 50 percent of the total POTW flow. The Agency has identified 32 industrial POTWs that treat pulp and paper industry wastewaters to this extent. Typically, the facility co-treats municipal sewage. The mills discharging wastewater to these POTWs have manufacturing processes in nine subcategories.

3. Wastewater Characterization

Mills in the pulp, paper, and paperboard category discharge conventional, nonconventional, and toxic pollutants. As reported in the 1990 Census, approximately 182,000 metric tons per year of BOD_5 and 266,000 metric tons per year of TSS are discharged directly by the pulp and paper industry.

When the Agency conducted its sampling program (as described in section VIII.A), the early screening studies confirmed that most priority pollutants are not present in bleached kraft mill wastewaters. The priority pollutants that were present in bleached kraft mill wastewaters included TCDD, chloroform, methylene chloride, 2,4,6-trichlorophenol, and pentachlorophenol. Further sampling work, conducted between 1989 and 1992, focused on volatile organic compounds and on two different classes of toxic compounds that are generated during bleaching of chemically pulped wood with chlorine and chlorine-containing compounds: chlorinated dioxins and furans and chlorinated phenolic compounds. The Agency estimated the current discharge of priority and nonconventional pollutants from pulp and paper mills using data collected by the Agency's short- and long-term sampling programs and data supplied by the industry. Data believed to be representative of industry operations as of January 1, 1993 were used.

The Agency estimates that 410 g/yr of TCDD and TCDF were discharged to the environment by the pulp and paper industry in 1992. Approximately 1,530 kkg/yr of four volatile compounds and 1,550 kkg/yr of 20 chlorinated phenolic compounds were discharged in 1992. The Agency estimates that additional chlorinated phenolic compounds and other dioxin and furan compounds were discharged to the environment although they are not specifically incorporated into the discharge estimates shown above.

In addition to specific toxic compounds, the Agency collected data on the generation of three nonconventional aggregate pollutant parameters: adsorbable organic halides (AOX), chemical oxygen demand (COD), and color. Each of these pollutant parameters is defined by the analytical test method used to measure it (see section IX–I.6 of this preamble). Approximately 51,000 kkg/yr of AOX were discharged directly in 1992. For chemical wood pulping mills (Subparts A, B, C, D, E, and F), approximately 3,180,000 kkg/yr of COD were discharged in 1992. Standardized data on industry-wide discharges of color were not available, so the Agency has not estimated the mass of color discharged by paper mills nationwide.

Section 6 of the technical water development document for today's proposed rule provides additional data on mass loadings and concentrations of priority and nonconventional pollutants found during the Agency's sampling of pulp and paper wastewater and also provides industry-supplied data on pollutants found in wastewater. The methodology used to estimate baseline pollutant loadings is also described in detail.

C. Selection of Pollutant Parameters

1. Pollutants Regulated

a. *Introduction.* This section summarizes the effluent pollutants controlled by today's proposed regulation, which are presented in Table IX.C–1.

b. *Dioxin and Furan.* The pulp, paper, and paperboard mills that chemically pulp and bleach wood with chlorine and chlorine-containing compounds generate significant discharges of toxic pollutants from the pulping and bleaching processes. Such toxic pollutants include chlorinated dioxins and furans, particularly TCDD and TCDF. None of the bleaching chemical pulp mills in the 104-Mill Study were found to be free of TCDD/TCDF. Data gathered by the Agency indicate that approximately 410 grams of TCDD and TCDF combined are discharged annually (as of 1992) to surface waters from the mills using those bleaching operations. Thus, effluent limitations for TCDD and TCDF are included in the proposed regulations in the dissolving kraft subcategory (Subpart A), bleached papergrade kraft and soda subcategory (Subpart B), dissolving sulfite subcategory (Subpart D), and papergrade sulfite subcategory (Subpart E).

TABLE IX.C–1.—POLLUTANTS CONTROLLED IN PROPOSED EFFLUENT GUIDELINES

Pollutants regulated	Effluent regulation									
	BPT	BCT	BAT		NSPS		PSES		PSNS	
			BP[1]	EOP[2]	BP[1]	EOP[2]	BP[1]	EOP[3]	BP[1]	EOP[3]
BOD_5	X	X				X				
TSS	X	X				X				
TCDD			X		X		X		X	
TCDF			X		X		X		X	
Chloroform			X		X		X		X	
Acetone			X		X		X		X	
MEK[4]			X		X		X		X	
Methylene Chloride			X		X		X		X	
Chlorinated Phenolics[5]			X		X		X		X	
AOX				X		X		X		X
COD				X		X		X		X
Color[6]				X				X		

[1] BP=bleach plant effluent;
[2] EOP=end-of-pipe effluent;
[3] For indirect discharging mills, the end-of-pipe effluent is the discharge to a POTW;
[4] MEK=methyl ethyl ketone;
[5] Chlorinated phenolics=trichlorosyringol; 3,4,5-trichlorocatechol; 3,4,6-trichlorocatechol; 3,4,5-trichloroguaiacol; 3,4,6-trichloroguaiacol; 4,5,6-trichloroguaiacol; 2,4,5-trichlorophenol; 2,4,6-trichlorophenol; tetrachlorocatechol; tetrachloroguaiacol; 2,3,4,6-tetrachlorophenol; pentachlorophenol;
[6] Color limits are proposed only for the bleached papergrade kraft subcategory.

c. *Volatile Compounds.* Among the volatile organic compounds for which wastewater samples were analyzed (see Appendix A), the four detected most often were acetone, chloroform, methylene chloride, and methyl ethyl ketone (MEK). Under the CWA, chloroform and methylene chloride are priority pollutants, and MEK and acetone are nonconventional pollutants. Chloroform, methylene chloride, and MEK also are listed as hazardous air pollutants (HAPs). Data gathered by the Agency indicates that a total of approximately 1,530 kkg/yr of these four volatile organic compounds were discharged in wastewaters in 1992. These compounds are also emitted to the atmosphere. The proposed regulations will reduce both wastewater discharges and atmospheric emissions of these compounds. For these reasons, these four compounds are proposed for regulation in the dissolving kraft subcategory (Subpart A), bleached papergrade kraft and soda subcategory (Subpart B), dissolving sulfite subcategory (Subpart D), and papergrade sulfite subcategory (Subpart E).

d. *Chlorinated Phenolic Compounds.* Among the chlorinated phenolic compounds for which samples were analyzed (see Appendix A), 12 of the higher substituted tri-, tetra- and penta-chlorinated compounds are associated with the formation and presence of TCDD and TCDF, and also have human health or aquatic effects. Data gathered by the Agency indicates that 282 metric tons per year of higher substituted chlorinated phenolic compounds are discharged in final effluent by bleaching chemical pulp mills. The 12 compounds proposed for regulation are as follows: Trichlorosyringol; 3,4,5-trichlorocatechol; 3,4,6-trichlorocatechol; 3,4,5-trichloroguaiacol; 3,4,6-trichloroguaiacol; 4,5,6-trichloroguaiacol; 2,4,5-trichlorophenol; 2,4,6-trichlorophenol; tetrachlorocatechol; tetrachloroguaiacol; 2,3,4,6-tetrachlorophenol; and pentachlorophenol. Two of these pollutants are priority pollutants (2,4,6-trichlorophenol and pentachlorophenol); the remainder are

nonconventional pollutants. In addition to the importance of controlling these 12 higher substituted compounds, the Agency also believes that further progress in reducing TCDD and TCDF below currently measurable levels also will be achieved. These 12 compounds are proposed for regulation in the dissolving kraft subcategory (Subpart A), bleached papergrade kraft and soda subcategory (Subpart B), dissolving sulfite subcategory (Subpart D), and papergrade sulfite subcategory (Subpart E).

e. *AOX.* Adsorbable organic halides (AOX) is a measure of the total amount of halogens (chlorine, bromine and iodine) that are bound to dissolved or suspended organic matter and are quantified under specific analytical conditions. In pulp, paper, and paperboard effluents, essentially all of the halogenated organic substances, which are measured as AOX, are chlorinated forms which result from the bleaching of pulps with elemental chlorine and chlorinated compounds such as chlorine dioxide and hypochlorites.

Implementation of process changes by mills in the industry in many cases results in concentrations of TCDD and TCDF below the present limits of detection. Complete elimination of dioxin, furan, chlorinated phenolics, and other chlorinated organics would not be achieved unless all forms of chlorine-based bleaching are eliminated. Similarly, not all chlorinated organic compounds are eliminated when TCDD and TCDF are not detected. AOX is reduced as a result of these process changes, however, the total concentration and mass of chlorinated organic compounds, measured as AOX, remaining after these process changes is significant and measurable.

While statistically valid relationships among AOX and specific chlorinated organic compounds have not been established, only a small portion of the numerous chlorinated organic compounds in bleached chemical pulps have been individually identified. Establishing effluent limitations for AOX also has an advantage over establishing effluent limitations for the majority of individual chlorinated compounds, because the AOX analytical method is relatively inexpensive, quick, and reliable. For these reasons, AOX has been adopted by numerous jurisdictions around the world for the measurement and control of bleached chemical pulp wastewater discharges.

Therefore, the nonconventional pollutant AOX is being proposed for control in the dissolving kraft subcategory (subpart A), bleached papergrade kraft and soda subcategory (subpart B), dissolving sulfite subcategory (Subpart D), and papergrade sulfite subcategory (Subpart E).

f. *COD.* The Agency is proposing to regulate Chemical Oxygen Demand (COD) in discharges from the chemical pulping subcategories. COD is a measure of chemical oxidation using an analytical method that estimates the total oxygen demand of wastewater, including the refractory organic and inorganic substances in wastewater that are oxidized by potassium dichromate. COD is an important nonconventional pollutant parameter to control because it is indicative of the overall load of organic and wood extractive constituents in wastewater, and in particular, indicates the mass of organic pollutants in biologically treated effluents that are not readily biodegraded. In addition, COD effluent limitations based on the appropriate technology, including improved brownstock washing, closed screen rooms, best management practices and end-of-pipe biological treatment, will control losses and discharges to streams of pulping liquors and associated wood extractives. These sources recently have been postulated as the source of toxicity to aquatic systems. EPA believes that COD is an appropriate pollutant parameter for controlling these sources of pollutants and aquatic toxicity. Effluent limitations for COD are being proposed today for the chemical pulping subcategories, both bleached and unbleached, including the dissolving kraft subcategory (Subpart A), bleached papergrade kraft and soda subcategory (Subpart B), unbleached kraft subcategory (Subpart C), papergrade sulfite subcategory (Subpart E), and semi-chemical subcategory (Subpart F). The Agency will continue to consider proposing COD effluent limitations for the dissolving sulfite subcategory (Subpart D), however, there are insufficient data available for such a proposal at this time. See section XIII of this preamble.

g. *Color.* Color in treated effluents of both bleached and unbleached chemical pulp mills is an easily recognized characteristic of these wastewaters. In this effluent guideline, EPA is proposing to regulate color, which is a nonconventional pollutant as well as a useful measure of the performance of process technologies. However, as discussed in sections IX.E and XIII, limited color data are available for most subcategories. Only in the bleached papergrade kraft and soda subcategory (subpart B) are sufficient data available to propose effluent limitations for color. Further discussion of color is included in the technical water development document.

h. *BOD_5 and TSS.* Biochemical oxygen demand (BOD_5) and total suspended solids (TSS) are conventional pollutants that have been regulated in this industry by BPT and BCT effluent limitations as important measures of the biodegradable organic matter and suspended solids generated by all mills in all subcategories of the pulp and paper industry. EPA estimates that 182,000 metric tons of BOD_5 and 266,000 metric tons of TSS are discharged from 325 direct dischargers in the industry. Most mills have secondary biological treatment, except for certain non-integrated mills in the fine and lightweight papers from purchased pulp subcategory (Subpart K), and the tissue, filter, non-woven, and purchased pulp subcategory (Subpart L) for which primary treatment was the basis for the existing effluent limitations. See section IX.E.1. EPA is proposing to revise the BPT and BCT effluent limitations for these pollutants in all subcategories.

2. Pollutants and Subcategories Not Regulated

a. *Toxic pollutants not regulated.* EPA is not proposing effluent limitations or standards for all priority and toxic pollutants in this proposed regulation. Among the reasons EPA may have decided not to propose effluent limitations for a pollutant are the following:

(1) The pollutant is deemed not present in pulp, paper, and paperboard wastewaters, because it was not detected in the effluent with the use of analytical methods promulgated pursuant to section 304(h) of the Clean Water Act or with other state-of-the-art methods.

(2) The pollutant is present only in trace amounts and is neither causing nor likely to cause toxic effects.

(3) The pollutant was detected in the effluent from only one or a small number of samples and the pollutant's presence could not be confirmed.

(4) The pollutant was effectively controlled by the technologies used as a basis for limitations on other pollutants, including those limitations proposed today, or

(5) Insufficient data are available to establish effluent limitations.

b. *Nonconventional Pollutants Not Regulated.* In addition to TCDD and TCDF, there are other dioxin and furan congeners which were found in pulp and paper wastewaters but which EPA is not proposing to regulate directly in today's regulations. The primary congeners found were the hepta- and

octa-substituted dioxins and furans. EPA believes that today's proposed regulations would provide substantial incidental control of these pollutants. This is in part because, with a few exceptions, when TCDD and TCDF were not detected, the hepta-, and octa-substituted congeners were either near or below their detection limits. While the detection limits of these compounds are higher than for TCDD and TCDF, they contribute less than 10 percent of the total TEQ for all congeners found in this industry.

In addition, EPA is not proposing regulations for eight chlorinated phenolics found in pulp and paper wastewaters. These compounds, while not chosen for regulation, appear to be amenable to biological treatment and have been noted to have relatively low human health and aquatic toxicities.

c. *Subcategories Not Regulated.* EPA is today proposing BAT limits in six subcategories. As described in section IX.E., revised BAT effluent limitations guidelines and standards for the remaining subcategories (Subparts G, H, I, J, K, and L) are not being proposed today pending further study to determine the quantities of priority and nonconventional pollutants discharged, and the availability, costs, and economic impact of appropriate control technologies.

The Agency is concerned about the discharge of chlorinated compounds from subcategories that utilize chlorine bleaching but are not covered by today's proposed BAT effluent guidelines. In EPA's 1990 Census, a total of 41 mills in these subcategories reported bleaching with hypochlorite and/or chlorine. (These 41 mills were found in the secondary fiber deink, secondary fiber non-deink, and non-wood pulp subcategories). Many of these mills monitored their effluent for toxic chlorinated compounds between 1985 and 1990, and supplied results of this monitoring with their questionnaires. TCDD was detected at two secondary fiber deink mills and TCDF was found at four secondary fiber mills, two deink and two non-deink. Chloroform was detected by seven secondary fiber deink mills, and one mill that uses kraft pulping on non-wood furnish.

D. Available Technologies

1. Process Controls and Changes Considered

Many approaches have been taken by the pulp, paper, and paperboard industry in implementing process control and process changes to reduce or eliminate pollutant discharges. Technical development documents for previous rulemakings have identified production process control technologies that are commonly employed within the industry for the woodyard and woodroom, pulp mill, pulp washer and screen room, bleaching system, evaporation and recovery, liquor preparation area, papermill, and steam plant and utility areas. Since the previous rulemakings, there have been numerous process innovations and changes at pulp, paper, and paperboard mills, the majority of which have occurred in the pulping and bleaching areas.

The process changes that were considered in the development of these proposed effluent limitations guidelines include: (1) Chip quality control—Such control through the use of chip thickness screens or better control of the chipping process has a significant impact on the delignification process. Chip uniformity is extremely important for proper circulation and penetration of the pulping chemicals. Cooking chips of uniform thickness results in a maximization of yield and a minimization of the use of bleaching chemicals; (2) elimination of dioxin precursor defoamers—This elimination is accomplished through the substitution of precursor free defoamers thus eliminating the possible creation of dioxins from this source; (3) extended cooking—Over the last decade, methods have been developed that allow the pulp cooking time to be extended, enabling further delignification to occur before the pulp moves on to the bleaching stages. At the same time, these techniques protect the pulp from the detrimental effects (reduction in quality and yield) that would normally accompany increased cooking time. Extended delignification reduces the residual lignin by up to 38 percent compared to conventional cooking, thereby reducing the bleach plant effluent constituents by a similar amount; (4) closed screening and deknotting—Through employment of closed screening and deknotting systems, all wastewater associated with the pulping process up to the bleach plant is reused and ultimately routed to the recovery system thus eliminating the wastewater discharges associated with open screening and deknotting systems; (5) improved pulp washing—Improved washing involves the replacement of, or the addition to, existing pulp washing systems resulting in the increased removal of dissolved lignin solids and spent cooking liquor from the pulp. Such reductions result in a concurrent reduction in the use of bleaching chemicals. Current state-of-the-art washers include pressure washers, belt washers, diffusion washers and pulp presses; (6) oxygen delignification—This process provides an additional way to extend the pulp delignification process, thereby lowering the bleaching chemical demands and the amount of pollution associated with subsequent bleaching stages. Between 40 and 50 percent of the residual lignin left in the pulp after cooking is removed in the oxygen delignification stage. The removed lignin is separated from the pulp in post-oxygen delignification pulp washing stages and routed to the recovery process; (7) high shear mixing of pulp—Such mixing results in a better distribution of chemicals thereby reducing the amount of bleach chemicals needed and reducing or eliminating the formation of unwanted byproducts such as chlorinated dioxins and furans which results from the over-chlorination of the pulp; (8) high chlorine dioxide substitution—Chlorine dioxide, which bleaches pulp by a different chemical reaction pathway than chlorine, produces much smaller quantities of chlorinated organic compounds than chlorine. Chlorine dioxide can replace all of the chlorine in the first bleaching stage; (9) enhanced extraction with oxygen and peroxide—Adding oxygen and/or peroxide to the extraction stages of bleaching enhances the removal of dissolved lignin products from the pulp. This allows for a reduction in the total amount of active chlorine in the overall bleach sequence which results in a decrease in the amount of chlorinated organics formed; (10) peroxide bleaching—For some types of pulps and products, peroxides can be substituted for some or all of the chlorine based bleaching chemicals resulting in the reduction or elimination of chlorinated organics discharged; (11) elimination of hypochlorite bleaching—Through the use of other bleaching chemicals such as peroxides and chlorine dioxide, in conjunction with enhanced extraction, hypochlorite bleaching can be eliminated resulting in a substantial reduction in the amount of chloroform formed and discharged to the air and water; (12) high temperature/high alkalinity hypochlorite bleaching—For those cases where it has been asserted by the industry that it may not be possible to eliminate hypochlorite bleaching, such as in the production of some grades of dissolving pulp, the Agency has received preliminary data indicating that high temperature/high alkalinity hypochlorite bleaching can be employed to significantly reduce the amount of chloroform discharged; (13) ozone bleaching—Ozone, in

combination with other processes, such as oxygen delignification and peroxide bleaching, may be utilized to replace all chlorine and chlorine-based bleach chemicals resulting in the elimination of all discharges of chlorinated organics. In addition, the elimination of chlorine-based bleach chemicals allows for closure of the bleach plant and eliminates the wastewater discharges from this portion of the facility; and (14) recovery boiler upgrades—Where recovery capacity is not adequate to accommodate the increases in liquor solids and/or flow associated with inplant changes such as extended cooking, oxygen delignification, improved pulp washing, and closed screening and deknotting, recovery boiler upgrades are required. Such upgrades may be accomplished through numerous methods including but not limited to use of anthraquinone and/or polysulfides in pulping, air system modifications, boiler modifications, and installation of high liquor solids firing. In addition, existing boilers can be replaced and additional boiler capacity can be installed.

2. End-of-Pipe Treatment Technologies Considered

The end-of-pipe treatment technologies presently employed by the industry include: steam stripping and reuse of condensates, preliminary treatment (neutralization, equalization, primary clarification, and/or various flotation techniques), biological or equivalent treatment (aerated stabilization basins with and without settling basins, oxidation ponds, and activated sludge systems), and physical/chemical treatment (filtration and chemically-assisted clarification).

For the direct discharging mills surveyed, 3 percent provide no primary or secondary treatment, 14 percent provide only primary treatment. At the remaining 83 percent, secondary biological or equivalent treatment is provided, with aerated stabilization basins the predominant type of treatment system employed. Biologically-treated effluents are further treated at approximately 2 percent of the direct discharging mills.

For the indirect discharging mills surveyed, 3 percent provide primary treatment followed by secondary treatment at a publicly owned treatment works (POTW) while 91 percent provide no treatment followed by primary and/or secondary treatment at a POTW.

There are 37 pulp, paper, and paperboard mills that the Agency believes may not discharge wastewater to navigable waters. Of these, nine dispose of wastewater by land application and the remaining 28 through 100 percent recycle. Of the mills that may achieve zero discharge through 100 percent recycle, one produces paperboard from purchased virgin semi-chemical pulp. The other 27 mills all make products from non-deinked secondary fiber: 21 produce paperboard, builders paper or roofing felt, and six produce other products. However, EPA was unable to confirm its data concerning the discharge status of the six mills making these other products.

As noted above, nine mills may achieve zero discharge of wastewaters through land application. EPA believes these mills are able to employ land application due to specific circumstances at these sites, such as the availability of sufficient land amenable to wastewater application, and suitability of land to accommodate wastewaters with no runoff. Therefore, land disposal to achieve zero discharge is not considered to be an available technology for mills in the industry generally.

E. Rationale for Selection of Proposed Regulations

1. BPT

a. *Introduction.* EPA is today proposing revised BPT effluent limitations guidelines for all subcategories in the pulp, paper, and paperboard industry.

b. *Pollutants of Concern.* EPA is proposing BPT effluent limitations controlling the discharge of BOD_5 and TSS.

c. *Determination of Technology Basis of BPT.* To determine the technology basis and performance level that is BPT, EPA developed a database consisting of 1989 effluent data supplied in the 1990 Census. The Agency determined that more than 80 percent of direct discharging mills utilize secondary wastewater treatment. Only 2 percent of direct discharging mills had superior, tertiary treatment technology in place and, as a result, EPA decided that secondary treatment would be the technology basis for revised BPT effluent guidelines. Accordingly, the Agency created a database comprised of all mills with wastewater treatment technologies representative of secondary treatment. Examples of mills not included in the database are: indirect and zero discharge mills, mills with no treatment, intermittent or noncontinuous dischargers, mills with poor performance due to the lack of primary or secondary treatment, mills with primary treatment only, and mills with tertiary treatment.

d. *Determination of Performance Level Defining BPT.* To determine the performance level defining proposed BPT, EPA used 1989 data supplied in the 1990 Census for production, BOD_5 loadings, and TSS loadings to calculate production-normalized long-term averages (LTA) for BOD_5 and TSS.

The performance level analysis was performed using the production-normalized BOD_5 effluent loadings because secondary treatment systems are designed with BOD_5 control as a primary objective. EPA arranged the mills in each subcategory according to effluent BOD_5 loading and considered two options: (1) The performance level representing the average of the best 90 percent of mills in each subcategory, calculated as the average of the LTA for the best 90 percent of mills, and (2) the performance level representing the average of the best 50 percent of mills in each subcategory, calculated as the average of the LTA for the best 50 percent of mills.

The Agency calculated the TSS limits proposed today by averaging the TSS LTA loadings for the best 50 percent of mills in each subcategory, as determined by the BOD_5 loadings. EPA determined that a separate subcategorization ranking of mills based on TSS effluent quality and a separate performance level analysis for TSS was not appropriate since treatment systems are designed for optimal BOD_5 removal and may not be designed for optimized TSS removal.

After the performance levels of the two options were determined, EPA identified appropriate combinations of in-process flow reductions and end-of-pipe secondary wastewater treatment that could achieve these performance levels. The two secondary treatment technologies commonly used in the pulp and paper industry are aerated stabilization basin (ASB) systems and activated sludge systems. The Agency identified feasible upgrades for each treatment type to achieve the option 1 and option 2 performance levels. The combination of upgrades applicable to a specific mill depends on the characteristics of the mill's wastewater and on the treatment currently employed (e.g., aeration capacity, detention time, and nutrient addition). In some cases, secondary biological-treatment upgrades alone cannot achieve the removal of BOD_5 and TSS necessary to achieve the performance levels of option 1 and option 2. In those cases, mills will require in-process flow reduction to meet the performance levels.

For both options, incremental compliance costs were estimated for the

mills in each subcategory not meeting the performance levels. These costs, as described in section IX.G. below, were used for BPT cost comparisons and for the economic impact analysis. Before estimating costs for individual mills in each subcategory whose BOD_5 or TSS loads exceeded the BPT LTA load, EPA subtracted the load reductions that would result from the implementation of BAT, BMP, and the air emission standards from the mill's current discharge load. The Agency compared the costs to effluent reduction benefits and found that the costs of the additional water pollution controls likely to be incurred for option 1 are $0.14 per pound of BOD and TSS combined and for option 2 are $0.13 per pound of BOD and TSS combined. The Agency concludes that both results are reasonable and justified and is proposing BPT limits based on option 2, because option 2 was as cost-effective as option 1 and provided substantially greater pollutant removals. For all mills that are projected to incur costs to comply with BPT option 2, the Agency estimates capital investment costs of $356 million and total annualized costs of $67 million. These costs could result in three to nine mill closures with a potential approximate employment effect of 1,000 lost jobs.

The analysis described above, which resulted in the selection of the performance level representing the average of the best 50 percent of mills in each subcategory, was not used to determine the performance level defining BPT for the Dissolving Sulfite Pulp subcategory, Subpart D. A different approach was developed for the following reasons: (1) Existing production-normalized effluent loadings for BOD_5 and TSS in this subcategory are significantly greater than the loadings for other subcategories (for example, the effluent loadings associated with the Dissolving Sulfite Pulp subcategory are four times greater than the loadings for the Dissolving Kraft subcategory, which utilizes similar processes that produce high BOD_5 raw waste loads); (2) the performance level analysis described above would result in proposed BPT effluent limitations less stringent than the current BPT limitations; and (3) the CWA authorizes EPA to require higher levels of performance than the "average of the best" in a subcategory where present practices in controlling the discharge of conventional pollutants are uniformly inadequate.

Because available data show that the existing performance of conventional pollutant control technologies in this subcategory are uniformly inadequate, the Agency developed an alternative approach which accounted for raw waste load reductions resulting from in-plant process changes that form the technology bases for BMPs and BAT COD controls. Also included were further reductions based on treatment performance from a well-designed and operated primary and secondary biological treatment system.

The first step in the analysis involved the calculation of current average BOD_5 and TSS production-normalized raw waste loads for the subcategory. Adjusted raw waste loads were then determined based on BOD_5 and TSS reductions achieved by BMPs and BAT COD control technologies. The final effluent performance level was calculated by applying removal rates for primary and secondary treatment currently demonstrated in the subcategory to the adjusted average raw waste load. A detailed description of the development of the performance level defining BPT for the Dissolving Sulfite Pulp subcategory is presented in section 9.0 of the technical water development document.

Incremental compliance costs were estimated for the mills in this subcategory not meeting the performance level, and these costs were used for BPT cost comparisons and for the economic impact analysis. The Agency compared the costs to effluent reduction benefits and found that the costs of the additional water pollution controls likely to be incurred are reasonable and justified. As a result, the Agency is proposing BPT for the Dissolving Sulfite Pulp subcategory based on the level of performance achieved by raw waste load reductions resulting from BMPs and BAT COD controls and additional raw waste load reductions resulting from the application of well-operated primary and secondary treatment.

Since the generation of the conventional pollutants BOD_5 and TSS is related to pulping, bleaching and papermaking processes, the production normalizing parameter for BPT and BCT limitations is the off-machine metric tons (OMMT) of final production of pulp, paper, and/or paperboard at the site. This production is defined as the annual OMMT (including coating where applicable) divided by the number of operating days during that year. The final paper and paperboard production shall be measured as the off-the-machine moisture content. The final production of market pulp shall be measured in air-dry-metric tons (10 percent moisture).

The development of the variability factors used to determine the effluent limitations from the LTA is discussed in section IX.F. A detailed explanation of the development of BPT effluent limitations is found in the technical water development document, section 9.0.

e. *Solicitation of Comments Concerning BPT Revisions.* EPA invites comment on whether the Agency should revise the current BPT effluent limitations for this industry. During the development of these proposed regulations, industry representatives argued that EPA lacks the authority to revise promulgated BPT effluent limitations guidelines and that the current BPT effluent limitations, which were promulgated in three phases in 1974, 1977, and 1982, should remain forever fixed. Representatives of environmental groups offered a different view—that EPA is required to revise BPT and other guidelines where new data indicate that existing limits are out of date. EPA solicits comment on whether the Agency is either legally proscribed from, or legally required to, revise BPT effluent limitations guidelines. EPA further solicits comment on the merits of the revisions contained herein. See section XIII.

EPA is interested in comments on the alternative option of addressing conventional pollutant discharges exclusively by revising BCT, as outlined in section 2.b below. EPA solicits data on the costs, effluent reduction benefits, water quality benefits, and any other factors that may be related to the proposed BPT revisions, BCT revisions, and the alternative approach for revising BCT outlined below. EPA will continue to analyze these factors and will consider all comments on the merits of revising BPT and BCT. See section XIII.

2. BCT

a. *Methodology for Determining Revised BCT Limits.* EPA is today proposing revised BCT effluent limitations guidelines for the pulp, paper, and paperboard industry. In eleven subcategories, these guidelines are based on the average performance of the best 50 percent of mills in the subcategory. In one subcategory (Mechanical Pulp), these guidelines are based upon multimedia filtration as the BCT technology.

In developing revised BCT limits, EPA considered whether there are technologies that achieve greater removals of conventional pollutants than proposed BPT, and whether those technologies are cost-reasonable according to the BCT cost test. In eleven subcategories, EPA identified no technologies that achieve greater removals of conventional pollutants

than proposed BPT that are also cost-reasonable under the BCT cost test, and accordingly proposes BCT limits equal to proposed BPT for those subcategories. In one subcategory (Mechanical Pulp), EPA found that multimedia filtration would achieve greater removals of conventional pollutants and would also be cost-reasonable under the BCT cost test, and therefore proposes this technology as BCT.

EPA's analysis had several steps. First, EPA considered how best to define the BPT "baseline" for these purposes. In performing the BCT cost tests, the BPT baseline serves as the starting point against which more stringent technologies are analyzed. EPA considered three possible baselines: (i) The revised BPT limits set forth in today's proposal, (ii) the actual long-term average discharge of conventional pollutants from mills in this industry, based on EPA's survey data, and (iii) a hypothetical level of control equal to the precise amount of discharge allowed under existing BPT regulations. Of these, the first is the most stringent and the third the least stringent level of control. EPA determined that selecting the revised BPT limits proposed today as the BPT baseline would best serve the purposes of the BCT cost test. Such an approach best reflects today's proposal to revise BPT limits, by starting with those limits as the baseline from which more stringent BCT candidate technologies are analyzed.

Second, EPA identified candidate BCT technologies. Two candidate technologies were identified: first, the technology in use by the best-performing mill in each subcategory and, second, multimedia filtration. (In subcategories where the best performer uses multimedia filtration, these two candidate technologies were the same). EPA was unable to evaluate the first candidate technology fully. Specifically, EPA was unable to evaluate the cost of retrofitting existing facilities to match the best performance in each subcategory. EPA solicits comment and further data on this candidate BCT technology. EPA was able to evaluate the second candidate technology, multimedia filtration, by estimating costs and pollutant removals on a mill-by-mill basis for each subcategory. The design parameters and other engineering assumptions for these estimates are explained in the technical water development document. The Agency solicits comment on other candidate technologies that might be more cost-effective than multimedia filtration.

EPA found that multimedia filtration failed the BCT cost test in eleven subcategories. As a result, EPA is today proposing to set BCT equal to proposed BPT in these eleven subcategories. These revised BCT limits would be based on the average performance of the best 50 percent of mills in each subcategory. EPA found that multimedia filtration passed the BCT cost test in one subcategory (Mechanical Pulp). As a result, EPA is today proposing multimedia filtration as the BCT technology in the Mechanical Pulp Subcategory. However, EPA does not have sufficient data at this time to propose limits for BOD_5 and TSS discharges from the Mechanical Pulp Subcategory based upon the use of multimedia filtration. EPA solicits data concerning the limits that could be achieved by mills within the Mechanical Pulp Subcategory using multimedia filtration. See the technical water development document for a complete discussion of the BCT methodology as applied in each of the subcategories.

b. *Alternative Methodology for Developing BCT Limits.* EPA performed an alternative BCT analysis, in addition to the foregoing. This alternative analysis is based on the assumption that, notwithstanding today's proposal, BPT limits for this industry ultimately are not revised. EPA concluded that, even if BPT limits ultimately are not revised, BCT limits more stringent than those currently in place would nevertheless be appropriate in six subcategories. These six subcategories are: Dissolving kraft; bleached papergrade kraft and soda; papergrade sulfite; mechanical pulp; tissue, filter, nonwoven and paperboard from purchased pulp; and secondary fiber deink. Revised BCT limits for the first five subcategories would be based on the average of the best 50 percent of mills; revised BCT limits in the secondary fiber deink subcategory would be based on the average of the best 90 percent of mills.

The alternative analysis proceeded in the same manner as the principal BCT analysis set forth immediately above. As with the principal BCT analysis, EPA considered whether there are technologies that achieve greater removals of conventional pollutants than existing BPT, and whether those technologies are cost-reasonable according to the BCT cost test. As with the principal BCT analysis, EPA considered first how best to define the BPT "baseline" for these purposes. However, because the alternative analysis was based upon the assumption that BPT limits were not being revised, EPA did not select revised BPT limits as the BPT "baseline." Instead, EPA considered further the two other options for setting the BPT baseline described above—the actual long-term average discharge of conventional pollutants from mills in this industry (the "LTA"), and a hypothetical level of control equal to the precise amount of discharge allowed under existing BPT limits.

EPA decided that the LTA was the most appropriate choice for the BPT baseline under this alternative analysis. Selection of the LTA—which represents actual discharges from the industry—permitted EPA to perform the most accurate and meaningful cost calculations as part of the BCT test. EPA decided not to use a hypothetical level of control based on existing BPT limits, in part because actual performance of the industry varies from these limits, and the necessary cost calculations (estimating the incremental cost to upgrade a mill from the hypothetical BPT level of control to the candidate BCT technology) would have been far more speculative than those based on the actual discharges from the industry. EPA's choice of the LTA as the baseline under this alternative analysis is consistent with EPA's 1986 BCT methodology, which provides that in situations with "a lack of comparable industry data . . . EPA [may] develop appropriate procedures to evaluate cost-reasonableness on an industry-specific basis" (51 FR 24976).

EPA next identified candidate BCT technologies. Four were identified. These were: (i) The technology required to perform at the level achieved by the best 90 percent of mills in the subcategory; (ii) the technology required to perform at the level achieved by the best 50 percent of mills in the subcategory; (iii) the technology required to perform at the level achieved by the best performing mill in the subcategory; and (iv) multimedia filtration. However, for candidate technologies (iii) and (iv), EPA had inadequate time and resources to fully evaluate the technology for purposes of the alternative BCT cost test. Specifically, EPA was unable to develop adequate costing information concerning the cost increments between the current LTA, on the one-hand, and either the technology required to perform at the level achieved by the best performing mill in the subcategory or multimedia filtration, on the other. EPA solicits data and comments concerning the cost of upgrading wastewater treatment facilities in this manner.

EPA did, however, evaluate candidate technologies (i) and (ii) under this alternative analysis. The first candidate technology passed the BCT cost test in six subcategories—Dissolving kraft;

bleached papergrade kraft and soda; papergrade sulfite; mechanical pulp; tissue, filter, nonwoven and paperboard from purchased pulp; and secondary fiber deink—and failed in the remaining subcategories. The second candidate technology passed the BCT cost test for five of the six subcategories that passed the first candidate technology. The second candidate technology failed in the secondary fiber deink subcategory and all remaining subcategories. Because the second technology described above is more stringent than the first, EPA considers that technology—the level of control achieved by the best 50 percent of mills in each subcategory—to be the appropriate basis for revised BCT limits for five subcategories under this alternative analysis. EPA considers the level of control achieved by the best 90 percent of mills in the subcategory to be the appropriate basis for revised BCT limits for the secondary fiber deink subcategory under this alternative analysis.

In addition to the BCT cost test, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, and non-water quality environmental impacts. No basis was found for identifying alternative BCT limits based on these factors for any subcategories.

c. *Costs and Effluent Reduction Benefits.* EPA is today proposing revised BCT limits (based on using revised BPT as the baseline) in all subcategories of the pulp and paper industry. EPA estimates that, under this proposal, mills would incur annualized costs of $67 million and would reduce conventional pollutant loadings by 427 million pounds per year. If EPA were to revise BCT limits for only six subcategories based on the alternative BCT methodology described above (using current loadings as the baseline), annual compliance costs would be $39 million and conventional pollutant loading reductions would be 270 million pounds annually.

d. *Conclusion.* EPA is today proposing revised BCT limits in all subcategories of the pulp and paper industry. In six subcategories, these BCT revised limits are based upon the assumption that BPT limits for the industry are revised from their current levels. In six other subcategories—dissolving kraft; bleached papergrade kraft and soda; papergrade sulfite; mechanical pulp; tissue, filter, nonwoven and paperboard from purchased pulp; and secondary fiber deink—these revised BCT limits are not based on any assumptions concerning the revision of BPT, and would be appropriate whether or not BPT is revised.

3. BAT

a. *Introduction.* EPA today is proposing additional and revised BAT effluent limitations for certain subcategories of the pulp, paper, and paperboard industry. The BAT effluent limitations proposed today would control certain toxic and nonconventional pollutants discharged from mills in six subcategories, including all mills that bleach chemical pulps.

The Agency is concerned about potential discharges of toxic and nonconventional pollutants from the pulp, paper, and paperboard industry not addressed in today's proposal or in existing regulations. EPA will further evaluate these concerns in connection with its effluent guidelines planning process under sec. 304(m) of the CWA. Section IX.C discusses the pollutants and subcategories that the Agency is continuing to study.

b. *Establishing BAT Limits*— (1) Production Normalizing Parameters.

In order to establish mass-based BAT effluent limitations, the mass of pollutants being regulated (which is a product of the pollutant concentration, the wastewater flow, and the necessary conversion constants) is related to the appropriate measure of production (usually in metric tons). This appropriate measure of production is known as the "production-normalizing parameter."

Many of the BAT pollutants (TCDD, TCDF, chlorinated phenolic compounds, chloroform, methylene chloride, acetone, MEK, and AOX) are generated in the bleach plant of mills that bleach chemically pulped wood with chlorine-containing compounds. Therefore, the production-normalizing parameter for BAT limitations of these pollutants is air-dry-metric tons (ADMT) of brown stock pulp (10 percent moisture) entering the bleach plant at the stage during which chlorine or chlorine-containing compounds are first applied to the pulp. This production-normalizing factor is different than that for BPT (see section IX.E.1.).

Wastewater COD and color loadings result primarily from pulp mill wastewaters and bleach plant caustic extraction stages. Therefore, the production-normalizing parameter for BAT limitations for these pollutants is ADMT of total brown stock pulp (10 percent moisture) defined as the sum of all brown stock pulp produced on-site measured between the digester outlet and pulp storage. This production normalizing parameter is different than the parameter for toxic pollutants because it includes brown stock pulp that is not bleached and brown stock pulp entering the bleach plant.

(2) Point of Regulation—(i) BAT Limitations for Bleach Plant Effluent.

EPA proposes today to set limits on certain pollutants inside the discharger's facility, at the point the wastewater containing those pollutants leaves the bleach plant. Such limits are authorized by the Clean Water Act and EPA's regulations at 40 CFR § 122.45(h). As set forth in more detail below, EPA proposes to establish limits on certain internal wastewater streams because limits for some pollutants at the point of discharge ("end-of-pipe") are impractical and infeasible as measures of the performance of process technologies. In the case of dioxins, furans, and several other chlorinated organic pollutants, such limits are impractical and infeasible in light of the detection capabilities of available analytical methods. In the case of chlorinated compounds, including chloroform and methylene chloride, and non-chlorinated compounds including acetone and methyl ethyl ketone, limits at the point of effluent discharge are impractical and infeasible because these pollutants would be lost as air emissions in wastewater conveyances and treatment facilities (e.g., collection boxes and aeration tanks) without bleach plant limits.

EPA believes that these in-plant limitations are critical in order to measure the performance of the process changes proposed as the basis for BAT limits in today's regulations. These process changes, in turn, are critical to multimedia pollution prevention in the pulp, paper, and paperboard industry.

BAT limitations for TCDD, TCDF, and several other pollutants will be applied at the effluent from the bleach plant. Control at this point is necessary because, with the chemical analytical methods currently available, discharges of TCDD, TCDF, and most chlorinated phenolic compounds of concern from the bleach plant will be near or below analytical method detection limits for mills using the technologies that form the basis of today's proposed BAT effluent limitations. Thus, if the effluent limitations were not applied at the effluent from the bleach plant, compliance could be achieved without using the best available technology economically achievable, but instead by diluting bleach plant wastewaters with the large wastewater flows from the rest of the mill. TCDD and TCDF, present but in concentrations below detection limits, would then either be discharged

to receiving streams (where these pollutants bioaccumulate), or partition to the sludge generated by the mill's secondary wastewater treatment system.

The BAT limitations that the Agency is proposing today would be applied to the total discharge from each physical bleach line operated at the mill. At most mills that chemically pulp and bleach wood, acid and alkaline bleach stage wastewaters are discharged to separate sewers; however, at some mills, bleach plant wastewaters are discharged to a combined sewer containing both acid and alkaline wastewaters. For nonvolatile compounds (TCDD, TCDF, and the chlorinated phenolic compounds) compliance with the BAT limitations can be demonstrated by collecting separate samples of the acid and alkaline discharges and preparing a flow-proportioned composite of these samples, resulting in one sample of bleach plant effluent for analysis. For volatile compounds, however, separate samples and analyses of all bleach plant filtrates discharged separately will be required. This is to prevent the loss of volatile compounds through air stripping as the samples are collected, measured, and composited or through chemical reaction when the acid and alkaline samples are combined. If separate acid and alkaline sewers do not exist, compliance samples must be collected from the point closest to the bleach plant that is physically accessible.

EPA solicits comments and data on its proposal to set limits on certain pollutants inside the discharger's facility, at the point the wastewater containing these pollutants leaves the bleach plant. EPA solicits any comments or data that might indicate that limits for these pollutants at the end-of-pipe could practically or feasibly be used to evaluate compliance with the BAT, PSES, NSPS and PSNS regulations proposed today.

(ii) BAT Limitations for Final Effluent. EPA today also proposes to set certain BAT effluent limitations at the final mill effluent discharged to the receiving stream. This compliance point is identical to the point used to demonstrate compliance with BPT limitations. All pollutants not limited at the bleach plant (i.e., AOX, COD and color) will be limited at the end-of-pipe.

The Agency is concerned that periodic discharges of dioxins, furans and other chlorinated organic pollutants may occur as a result of inventories of those pollutants in sludge on the bottom of aerated stabilization basins, overloaded clarifiers and appurtenant sludge management components of activated sludge systems. The Agency also is concerned that dioxins and furans that partition to pulp may find their way into paper machine white water and may be discharged in the effluent. In addition, miscellaneous wastewater streams ancillary to the bleach plant (as defined for compliance purposes in the regulation) may contain dioxin and furan and may not otherwise be controlled. These miscellaneous streams include bleach plant floor washings, bleach plant chemical preparation areas, bleaching tower and other bleach plant vent wet scrubber wastewaters. The Agency believes it is possible that control of chlorinated phenolic compounds not achieved through process changes alone would be achieved with end-of-pipe limits for AOX.

EPA solicits comments and data on whether end-of-pipe limits for dioxins, furans and chlorinated phenolics, in addition to the in-plant limits proposed today, would be appropriate to address the concerns set forth in the foregoing paragraph. The Agency also solicits comments on whether end-of-pipe limits for AOX are an effective means of controlling any chlorinated phenolic compounds that may not be consistently reduced to non-detect values by bleach plant process changes alone.

(3) Fundamentally Different Factors Variances. The CWA authorizes EPA to establish alternative limitations more or less stringent than those contained in the national effluent limitations guidelines on a case-by-case basis. These alternative limitations are permissible when there are factors present at a specific plant that are fundamentally different from the factors EPA considered during development of the limitations. See Section IX.I.3.

c. *Rationale for BAT Limitations by Subcategory.* Section V.A summarizes the factors to be considered in establishing the BAT level of control. In general, BAT represents the best existing economically achievable performance among plants with shared characteristics. Where existing pollution control technologies are uniformly inadequate, BAT may be transferred from a different subcategory or industrial category. BAT limitations may be based upon process changes, as well as measures that are not common industry practice.

The Agency is today proposing BAT effluent limitations under Subcategories A, B, C, D, E, and F. The rationale for the proposed effluent limitations in each subcategory is presented in the following paragraphs.

(1) Bleached Papergrade Kraft and Soda Subcategory, Subpart B. The Agency considered many technologies as regulatory options to reduce the generation of toxic and nonconventional pollutants from bleached papergrade kraft and soda mills. Of these, six options received the most serious consideration.

First, the Agency considered a totally chlorine-free (TCF) option for this subcategory. Worldwide, more than 15 mills produce TCF bleached kraft pulp. Most of the TCF pulp production is of a lower brightness (75–80 ISO), bleached with combinations of oxygen, ozone, enzymes, and peroxide. Only one mill routinely produces commercial quantities of high brightness (88–90 ISO) TCF kraft pulp from hardwood and bleached with ozone. In January 1993, this mill began to produce TCF softwood kraft pulp of lower brightness using ozone in short trials. Very little information is available concerning this process. One U.S. mill recently began producing lower brightness pulp (approximately 82–83 ISO) from softwood using an ozone bleaching process; however, the mill uses a final chlorine dioxide brightening stage and thus does not use a TCF process.

EPA does not consider TCF bleaching to be an available pollution prevention technology for the bleached papergrade kraft and soda subcategory at this time. This is because of the limited worldwide experience with and data for TCF bleaching of softwood in papergrade kraft and soda mills, and the fact that the majority of the kraft pulp in the U.S. is produced from softwood. (Softwood contains more lignin than hardwood and is thus more difficult to bleach to high brightness). However, EPA strongly encourages continuing innovation in the development of processes to reduce or eliminate the discharge of pollutants from this and other subcategories. EPA is today proposing alternative BAT effluent limits for those mills in this subcategory that adopt TCF process.

The remaining five regulatory options for this subcategory all include these elements:

- Adequate wood chip size control, achieved by close control of chipping equipment tolerances or use of chip-thickness screens. Chip size control is assumed to pay for itself through improved yield (fewer rejects) and more consistent pulp quality.
- Elimination of defoamers containing dioxin precursors, which the Agency believes is uniformly practiced by the U.S. pulp industry.
- Brown stock washing that achieves a washing loss of 10 kg Na_2SO_4 per metric ton or less.
- The elimination of hypochlorite, and replacing it with oxygen or

peroxide enhanced extraction, as needed.

• Addition of high shear mixing for the addition of chlorine and/or chlorine dioxide.

In addition to these elements, the five technology options considered for the Bleached Papergrade Kraft and Soda BAT effluent limitations are as follows:

• *Option 1—Split Addition of Chlorine.* For this option, the total equivalent chlorine added to the first stage of bleaching is applied in two steps. The pH of the first bleaching stage is controlled by the addition of sodium hydroxide.

• *Option 2—Substitution of Chlorine Dioxide for Chlorine.* This option includes the use of some elemental chlorine, and maintains the current active chlorine multiple for the first bleaching stage (ACM-equivalent chlorine as percent on pulp, divided by the prechlorination kappa number). However, enough of the chlorine is replaced by chlorine dioxide to reduce the "active chlorine multiple ratio" for the first stage to 0.90 or less. Active chlorine multiple ratio, based on work by Paprican is that combination of active chlorine multiple and percent chlorine dioxide substitution that results in bleaching conditions in which TCDD and TCDF are theoretically not formed. The active chlorine multiple ratio is [ACM(150-% ClO_2 substitution)]/24. This results in limiting the elemental chlorine multiple to 0.065 or less, and is approximately equivalent to using chlorine dioxide to provide 70 percent of the bleaching power (measured as oxidizing potential) applied in the first bleaching stage (i.e., 70 percent substitution).

• *Option 3—Oxygen Delignification or Extended Delignification With Substitution of Chlorine Dioxide for Chlorine.* This option includes the reduction of the lignin content as measured by kappa number of the pulp entering the first stage of bleaching. For softwood pulp, the pre-chlorination kappa number is reduced from approximately 30 to 18. For hardwood pulp, kappa number is reduced from approximately 20 to 12. The reduction in kappa number may be achieved either through the use of oxygen delignification or use of extended cooking. The first stage bleaching conditions for Option 3 are the same as those specified for Option 2 (active chlorine multiple ratio 0.90 or less), but because the kappa number of the pulp is lower, a lower mass-based dose of chlorine and chlorine dioxide is used.

• *Option 4—Oxygen Delignification or Extended Delignification With Complete Substitution of Chlorine Dioxide for Chlorine.* This option includes the same reduction of pulp lignin content as specified for Option 3. The use of elemental chlorine is completely eliminated, and the current active chlorine multiple is applied using chlorine dioxide only.

• *Option 5—Oxygen Delignification and Extended Delignification With Complete Substitution of Chlorine Dioxide for Chlorine.* This option includes further reduction of the lignin content of the pulp entering the first stage of bleaching. For softwood pulp, kappa is reduced from approximately 30 to 15. For hardwood pulp, kappa is reduced from 20 to 10. The first stage bleaching conditions for Option 5 are the same as those specified for Option 4 (elimination of elemental chlorine, with the current active chlorine multiple applied as chlorine dioxide).

The performance of each option was determined using data collected by the Agency during the Long-Term and Short-Term studies described in VIII.A. The Agency finds that, moving from Option 1 to Option 5, these options generally show decreasing mass discharges and progressively fewer pollutants detected in bleach plant and final effluents.

The Agency is today proposing Option 4 for BAT effluent limitations guidelines for Subpart B. In making this decision, EPA considered factors including: the effluent reduction attainable, the economic achievability of each option, the age of equipment and facilities involved, the process employed, the engineering aspects of various types of control techniques, process changes, the cost of achieving effluent reductions, and non-water quality environmental impacts (including energy requirements).

EPA selected Option 4 as the proposed technology basis for the papergrade kraft and soda subcategory, in part because no other option that was both technically feasible and economically achievable resulted in greater effluent reductions. The Agency found that Option 4 would achieve reductions of approximately 317 grams per year of TCDD and TCDF, 2,530 metric tons per year of toxic and nonconventional pollutants, and approximately 32,900 metric tons per year of AOX, and approximately 1.1 million metric tons of COD. This compares to reductions of: approximately 317 grams per year of TCDD and TCDF, 2,570 metric tons per year of toxic and nonconventional pollutants, and approximately 25,400 metric tons per year of AOX for Option 3; approximately 315 grams per year of TCDD and TCDF, 2,330 metric tons per year of toxic and nonconventional pollutants, and approximately 8,550 metric tons per year of AOX for Option 2; and approximately 300 grams per year of TCDD and TCDF, 2,410 metric tons per year of toxic and nonconventional pollutants, and approximately 10,800 metric tons per year of AOX for Option 1.

The Agency decided not to propose Option 1 as the best available technology for this subcategory because that option will not ensure that discharges of TCDD and TCDF in bleach plant effluents are below the analytical method detection limits. The measurable levels of TCDD and TCDF clearly will result in contamination of wastewater treatment sludges. The Agency decided not to propose Options 2 and 3 as the best available technology for this subcategory because Option 4, which is elemental chlorine-free, will achieve significantly more reduction in the discharge of highly chlorinated phenolic compounds, to near or below the limits of detection, and significantly greater reductions in AOX, than these options. The Agency believes this is particularly important because reductions of these highly chlorinated phenolic compounds have been associated with further reductions in TCDD and TCDF below the current minimum level of detection. In addition, neither Option 1 nor Option 2 offers the opportunity for increased pulping liquor recovery and concomitant reductions in consumable chemical costs, and improved consistency of pulp quality that result from oxygen delignification or extended cooking. Further benefits of Option 4 are the reductions achieved in concentrations of dioxin (1.0 ppt) and furan (1.9 ppt), and total organic chlorine content of wastewater treatment sludges (ten-fold reduction below Option 1). This finding will be particularly important in the Agency's assessment of the need to regulate land disposal practices for pulp and paper mill wastewater treatment sludges. An exception to this trend is that further reductions in chloroform in wastewater are not achieved beyond Option 2.

The Agency decided not to propose Option 5 because the costs of retrofitting Option 5 process technology (i.e., both extended delignification *and* oxygen delignification, as well as added recovery boiler capacity to handle the additional pulping liquor solids) may be very high for an existing source. Upon examining the economic impacts of Option 5, EPA concluded that Option 5 was not economically achievable.

The Agency estimated that the 78 mills with direct discharge would incur

total annualized cost of $260 million in complying with Option 4. This compared to the following total annualized costs for other options: $97 million for Option 1, $113 million for Option 2, $200 million for Option 3, and $562 million for Option 5. The Agency estimated that Option 4 would result in a range of one to three plant closures and an estimated employment effect in the range of 500 to 4,400 lost jobs. The comparable figures for other options range from one to two plant closures and up to 3,700 lost jobs for Option 1 to a maximum of eight plant closures and up to 11,300 lost jobs at Option 5. These impacts, and the methodology behind them, are explained in greater detail in the economic impact analysis. Based upon these findings, the Agency concludes that BAT effluent limitations based on Option 4 for the papergrade kraft and soda subcategory would be economically achievable.

As stated above, the Agency determined that the available data does not suggest that Option 5 is economically achievable. In making this determination, the Agency noted that total job loss under Option 5 could be as high as approximately 11,300 and that a maximum of eight mills would close; this is five mill closures more than the corresponding maximum impacts for Option 4.

Industry has expressed concern that the cost of implementing oxygen delignification is significantly higher than estimated by EPA. The difference may be attributable to industry's inclusion of cost estimates for installing a significant number of new recovery boilers to handle the increase in pulping liquor solids sent to recovery from oxygen delignification. The Agency believes that any modest upgrades of existing recovery boiler capacity necessary can be made to accommodate the marginal increases in solids loadings from oxygen delignification and other technologies that are part of BAT. The costs of these upgrades have been included in EPA's cost estimates. Decisions for installing additional recovery boiler capacity beyond these upgrades are production-based, and those costs are therefore unnecessary to comply with the proposed regulations. See section XIII for solicitation of comments and data.

The Agency found that the incremental increase in annual electrical power consumption for all mills to achieve Option 4 was 114 megawatts (MW). This is equivalent to an increase of approximately 4 percent for a typical 500 ton per day market kraft pulp mill. The incremental increases in electrical power consumption for the remaining options were: for Option 1, an increase of 41 MW; for Option 2, an increase of 22 MW; for Option 3, an increase of 114 MW; and for Option 5, an increase of 234 MW. The Agency did not find that the age of equipment and facilities involved provided any basis for choosing among the options. The Agency considered the different processes and engineering aspects of Options 1, 2, 3, 4, and 5 in evaluating each option.

In addition to the options described above, EPA considered, but did not have adequate data to evaluate, an option based on the complete substitution of chlorine dioxide for elemental chlorine in the first stage of bleaching. The Agency has received some data demonstrating the effectiveness of this option for reducing some of the pollutants selected for regulation. The Agency received additional data concerning the impact of this option on AOX discharges on October 21, 1993. Several industry representatives indicated that more complete information will be provided during the comment period. EPA solicits further data and comments on this option. If these data demonstrate technical feasibility, economic achievability and other statutory factors, EPA may revise the technology basis and corresponding effluent limitations for promulgation of the rules for this subcategory accordingly.

EPA today also is proposing COD effluent limitations for the bleached papergrade kraft and soda subcategory. These COD limitations were developed for this subcategory based on engineering evaluation of the best methods to control COD discharges. The COD effluent data used to develop the proposed effluent limitations were collected by EPA during the short-term studies and supplied by mills with their questionnaire responses.

The technology basis for the proposed COD effluent limitations consists of effective brownstock washing, closed brownstock pulp screen room operation, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. The first three technologies described above focus on preventing or capturing losses of pulping liquors and associated wood extractives and returning them to a heat or chemical recovery process. Closing screen rooms at older mills with open screen rooms is generally accomplished by reusing decker screen filtrates as pulp dilution water ahead of the screens, or as wash liquor on a preceding stage of washing. BPT level secondary treatment reduces the biodegradable portion of COD that remains after process changes. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represents the best available technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in this subcategory. No basis could be found for identifying different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. EPA has no data to suggest that the combination of technologies upon which COD effluent limitations are based significantly increase non-water quality environmental impacts.

In addition, the Agency concluded that the COD effluent limitations would be achievable based on the control technologies identified above. All costs for complying with the proposed COD effluent limitations, including the cost of closing screen room operations, were incorporated in the option-by-option economic impact analysis presented above and in section XI.B.

The Agency is also proposing today to include an alternative set of effluent limitations applicable to any wastewaters from TCF bleaching processes at mills in this subcategory. EPA is proposing these alternative limitations to provide mills with an incentive to eliminate or nearly eliminate the generation and discharge of chlorinated organic pollutants by using totally chlorine-free processes. These mills would initially be required to certify to the permitting authority that their processes are totally chlorine-free. The alternative limitations applicable to the wastewaters from TCF bleaching processes would not include any limitations on chlorinated organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) at the bleach plant or end-of-pipe, except for AOX. Mills employing TCF processes would have effluent limitations only for AOX, and would have initial monitoring requirements for specific toxic organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be terminated if all analytical results in a specified series of sampling events are non-detect.

(2) Dissolving Kraft Subcategory, Subpart A. The Agency studied the existing pollution control technologies used by the three mills in the Dissolving Kraft Subcategory and conducted

sampling programs at two of the three mills. The process technologies studied included the use of high application rates of hypochlorite in the bleaching sequences.

The Agency found existing process technologies to be uniformly inadequate to control the generation of TCDD, TCDF, chloroform, and other toxic and nonconventional pollutants generated during the bleaching of dissolving grade pulp. Data available indicate that all three mills within the subcategory discharged chloroform in final effluent (indicating very high loadings from the bleach plants) as well as a relatively high frequency of detected TCDD and TCDF (indicating the same).

For this reason, the Agency considered in detail three regulatory options transferred from the bleached papergrade kraft and soda subcategory. All of these options include reduction in the amount of chlorine and chlorine-containing compounds applied to the pulp. The Agency also considered a TCF option for this subcategory. However, the Agency determined that TCF technologies could not be practicably applied in this subcategory at this time.

The three options considered in the most detail for the dissolving kraft subcategory included all of the common elements of the bleached papergrade kraft options (adequate chip size control, elimination of defoamers containing dioxin precursors, brown stock washing to a loss of 10 kg Na_2SO_4 per metric ton or less, elimination of hypochlorite, oxygen or peroxide reinforced extraction, and high shear mixing for the addition of chlorine and/or chlorine dioxide). In addition to these elements, the three technology options are:

- *Option 1—Substitution of Chlorine Dioxide for Chlorine*, at the addition rates described for bleached papergrade kraft and soda (approximately 70 percent substitution).
- *Option 2—Oxygen Delignification With Substitution of Chlorine Dioxide for Chlorine.* This option differs from the bleached papergrade kraft option. It does not allow for the use of extended delignification, because the Agency has received information indicating that, for technical reasons, extended delignification cannot be applied in the dissolving kraft subcategory. The Agency also has recently received data indicating that oxygen delignification is feasible and will reduce the amounts of toxic and nonconventional pollutants generated during bleaching. The chlorine dioxide substitution rate is defined as for bleached papergrade kraft Option 2, approximately 70 percent.
- *Option 3—Oxygen Delignification With Complete Substitution of Chlorine Dioxide for Chlorine.* As in Option 2, this option does not include extended delignification which the Agency does not believe is technically applicable to dissolving kraft.

The Agency determined that the performance of dissolving kraft Options 1, 2, and 3 would be equivalent to bleached papergrade kraft Options 2, 3, and 4, respectively. This judgment is based upon the similarities of components of the process technologies and best engineering judgment. The performance of each option is summarized in the technical development document for each pollutant. Performance of an option is characterized primarily by the long-term average production-normalized mass discharge in bleach plant effluent.

The Agency is today proposing Option 2 for BAT effluent limitations guidelines for Subcategory A. In making this decision, EPA considered factors including: the effluent reduction attainable, the economic achievability of each option, the age of equipment and facilities involved, the process employed, the engineering aspects of various types of control techniques, process changes, the cost of achieving effluent reductions, and non-water quality environmental impacts (including energy requirements).

EPA selected Option 2 as the proposed technology basis for the dissolving kraft subcategory, in part because no other option that was technically feasible achieved greater effluent reductions. The Agency found that available information did not support a conclusion that Option 3 was technically feasible. More specifically, the Agency recently received data demonstrating that 100 percent substitution of chlorine dioxide for chlorine is not technically feasible in the dissolving kraft subcategory. The Agency also found that Option 2 would achieve significantly greater reductions in the discharges of toxic and nonconventional pollutants than would Option 1. For example, the long-term average in bleach plant effluent of TCDD for Option 1 is 512 ng/ADMT, compared to the data representing Option 2 where the long-term average was 153 ng/ADMT. The estimated reductions of volatile and chlorinated phenolic toxic pollutants (16 metric tons per year) and AOX (1,670 metric tons per year) are the highest for this option. In addition, Option 2 removes approximately 8,560 metric tons per year of COD. These compare to estimated reductions for Option 1 for toxic pollutants of 4.7 metric tons per year and for AOX of 232 metric tons per year.

The Agency estimated that the mills would incur total annualized cost of $1.7 million in complying with Option 1. The Agency estimated that mills would incur total annualized cost of $11.9 million in complying with Option 2. The Agency estimated that neither Option 1 nor Option 2 would result in any lost jobs or mill closures. These impacts, and the methodology behind them, are presented in greater detail in section IX.G. Based upon these findings, the Agency concludes that BAT effluent limitations based on Option 2 for the dissolving kraft subcategory would be economically achievable.

The Agency found that Option 2 would result in an incremental increase in electrical power consumption of 7.8 MW over Option 1. The Agency did not find that the age of equipment and facilities involved, processes, or engineering aspects provided any basis for choosing Option 1 over Option 2. The Agency did not find any significant differences in non-water quality impacts between Options 1 and 2.

The Agency is also proposing today to include an alternative set of effluent limitations applicable to any wastewaters from TCF bleaching processes at mills in this subcategory. EPA is proposing these alternative limitations to provide mills with an incentive to eliminate or nearly eliminate the generation and discharge of chlorinated organic pollutants by using totally chlorine-free processes. These mills would be required initially to certify to the permitting authority that their process is totally chlorine-free. The alternative limitations applicable to the wastewaters from TCF bleaching processes would not include any limitations on chlorinated organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) at the bleach plant or end-of-pipe, except for AOX. These mills would have BAT effluent limitations only for AOX, and also would have initial monitoring requirements for specific toxic organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be terminated if all analytical results in a specified series of sampling events are non-detect.

The Agency has recently received data indicating that mills may not be able to produce certain high grade dissolving kraft pulps without the use of hypochlorite to maintain product quality. Specifically, preliminary data received indicate that intrinsic viscosity, a measure of the degree of

polymerization of the dissolving pulp, is not maintained within acceptable specifications without the use of hypochlorite. See section XIII of this preamble for solicitation of comments and data to enable EPA to further define this concern. The Agency also solicits information on alternative process and control technologies more environmentally protective than existing processes that may be achievable for these products. Based on these preliminary data, the Agency specifically solicits comment on whether BAT effluent limitations for the dissolving kraft subcategory should be based upon reduced use of hypochlorite, compared to current practice, under specific conditions that achieve a substantial reduction in the amount of chloroform generated and emitted to air and discharged to bleach plant effluents. The Agency requests data on the specific process operating conditions and chloroform generation rates resulting from these conditions (see Section XIII for specific data requests).

EPA today also is proposing COD effluent limitations for the dissolving kraft subcategory. These COD limitations were developed based on engineering evaluation of the best methods to control COD discharges. The COD effluent data used to develop the proposed effluent limitations were collected by EPA during the short-term studies.

The technology basis for the proposed COD effluent limitations for the dissolving kraft subcategory consists of effective brownstock washing, closed brownstock pulp screen room operation, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. The first three technologies described above focus on preventing or capturing losses of pulping liquors and associated wood extractives and returning them to a heat or chemical recovery process. Closing screen rooms at older mills with open screen rooms is generally accomplished by reusing decker screen filtrates as pulp dilution water ahead of the screens, or as wash liquor on a preceding stage of washing. BPT level secondary treatment reduces the biodegradable portion of COD that remains after process changes. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represents the best available technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in developing the COD limitations for this subcategory. No basis could be found for identifying different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. EPA has no data to suggest that the combination of technologies upon which COD effluent limitations are based significantly increase non-water quality environmental impacts.

In addition, the Agency concluded that the COD effluent limitations would be achievable based on the control technologies identified above. All costs for complying with the proposed COD effluent limitations, including the cost of closing screen room operations, were incorporated in the option-by-option economic impact analysis presented above and in section XI.B.

(3) Dissolving Sulfite Subcategory, Subpart D. The Agency considered three regulatory options to reduce the generation of toxic and nonconventional pollutants during bleaching of dissolving sulfite wood pulps. One of these options (20 percent chlorine dioxide substitution for elemental chlorine) was rejected for reasons including lack of adequate performance data and minimal improvement in control of pollutants beyond existing practices.

The first remaining option is based on oxygen delignification followed by bleaching with complete substitution of chlorine dioxide for elemental chlorine. The second remaining option is a totally chlorine-free (TCF) bleaching process. At present, there is one mill in the U.S. that bleaches dissolving sulfite pulp using oxygen delignification and complete substitution of chlorine dioxide for elemental chlorine. Pollutant loadings at this mill were used to develop Option 1. At present there are no mills in the U.S. that use a TCF process to bleach dissolving sulfite pulp. However, there is a mill in Austria (and there may be others) that uses TCF processes to bleach dissolving sulfite pulp. Information primarily from the Austrian mill was used to analyze and develop Option 2.

Both regulatory options for this subcategory include these elements:

- Adequate wood chip size control, achieved by close control of chipping equipment tolerances or use of chip-thickness screens. Chip size control is assumed to pay for itself through improved yield (fewer rejects) and more consistent quality pulp; and
- Elimination of defoamers containing dioxin precursors, which the Agency believes is uniformly practiced by the U.S. pulp industry.

In addition to these elements, the two regulatory options considered for the dissolving sulfite subcategory are as follows:

- *Option 1—Oxygen Delignification With Complete Substitution of Chlorine Dioxide for Chlorine*

As indicated above, this option is based on using oxygen delignification followed by bleaching with complete substitution of chlorine dioxide for chlorine. Under this option, hypochlorite could be used in the bleach sequence.

- *Option 2—Totally Chlorine Free Bleaching*

As indicated above, this option is based on totally chlorine free (TCF) bleaching processes used by mills in other countries. Although the bleach sequence at each mill varies, all are based on oxygen delignification and use of ozone and/or peroxide in subsequent bleaching stages.

The performance of each option was determined using data collected by the Agency during the Long-Term Study and additional data gathering described in VIII.A. The Agency was not able to collect the same type of performance data from TCF mills in other countries as for the U.S. mill. Effluent limitations for mills in other countries typically consist of only BOD, COD, and AOX, and therefore these are the only data available. The Agency has requested but not been able to obtain data for individual toxic pollutants from any TCF mill. However, because chlorine and chlorine-containing compounds are not used at TCF mills, and because available data for bleach plant and final effluent AOX concentrations at TCF mills are very low, the Agency believes that concentrations of individual chlorinated compounds in wastewaters from TCF mills are not detectable.

The Agency is proposing Option 1 as the technology basis for BAT effluent limitations guidelines for Subpart D. EPA selected this option as the proposed technology basis for the dissolving sulfite subcategory, in part because no other option that was both technically feasible and economically achievable resulted in greater effluent reductions. The Agency found that Option 1 would achieve reductions of approximately 2.4 grams per year of TCDD and TCDF, 56 metric tons per year of toxic and nonconventional pollutants, and approximately 1,010 metric tons per year of AOX.

The Agency decided not to propose Option 2 as the best available technology for this subcategory because information recently supplied by dissolving sulfite producers indicates that their mills cannot currently meet all

product specifications for high quality, high purity dissolving sulfite pulp using TCF bleaching processes. The preliminary data that EPA has received suggest that critical product specifications relating to brightness, color, haze, and filterability, cannot currently be met for certain products without the use of some chlorine-containing compounds. Furthermore, the Agency does not have sufficient information on effluent reduction benefits that can be achieved by non-chlorine based bleaching for all grades of dissolving sulfite pulps. Notably, the Agency lacks this information for high purity acetate grades. Based on this data, the Agency does not consider TCF bleaching to be an available technology for some products within the dissolving sulfite subcategory at this time. EPA does, however, consider TCF bleaching to be an available technology for many products made within this subcategory at this time.

In addition, after examining the economic impacts of Option 2, EPA was concerned about the economic achievability of Option 2. The Agency estimated that the total annualized cost of complying with Option 1 would be $5 million and that the cost of complying with Option 2 would be $15 million. The Agency estimated that Option 1 would result in one plant closure and that Option 2 would result in two plant closures. The projected employment loss associated with these plant closures is not reported here because the level of data aggregation is inadequate to protect confidential business information. Based on the foregoing information, the Agency concluded that Option 1 is economically achievable.

The Agency found that Option 2 would result in an incremental increase in annual electrical power consumption of 3.2 MW over Option 1. The Agency did not find that the age of equipment and facilities involved, processes, or engineering aspects provided any basis for choosing Option 2 over Option 1. The Agency did not find any significant differences in non-water quality environmental impacts between Options 2 and 1.

EPA strongly encourages continuing innovation in the development of processes to reduce or eliminate the discharge of pollutants from this subcategory. During development of these proposed regulations, industry representatives expressed their view that some products currently being made at dissolving sulfite mills could not be made with either Option 1 or Option 2. The Agency solicits comments on whether this subcategory should be further divided, based on product specifications or other factors, so that chlorine and chlorine compounds can be minimized to a greater degree.

The Agency is also proposing today to include an alternative set of effluent limitations applicable to any wastewaters from TCF bleaching processes at mills in this subcategory. EPA is proposing these alternative limitations to provide mills with an incentive to eliminate or nearly eliminate the generation and discharge of chlorinated organic pollutants by using totally chlorine-free processes. These mills would initially be required to certify to the permitting authority that their processes are totally chlorine-free. The alternative limitations applicable to the wastewaters from TCF bleaching processes would not include any limitations on chlorinated organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) at the bleach plant or end-of-pipe, except for AOX. Mills employing TCF processes would have effluent limitations only for AOX, and would have initial monitoring requirements for specific toxic organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be terminated if all analytical results in a specified series of sampling events are non-detect.

The Agency is not proposing effluent limitations for COD for this subcategory. COD data that reflect available technologies to control refractory pollutants that originate in the pulping and recovery areas of mills (e.g., closed screen rooms, BMPs, etc.) are not available at this time for this subcategory. The methodology for deriving COD limitations is described in the preceding sections for the bleached papergrade kraft and soda subcategory, and the dissolving kraft subcategory. See also section XIII of this preamble for solicitation of comments and data. The Agency may develop COD effluent limitations for this subcategory when data become available.

(4) Papergrade Sulfite Subcategory, Subpart E. The Agency considered three options to reduce the generation of toxic and nonconventional pollutants during bleaching of papergrade sulfite wood pulps. One of these options (based on oxygen and peroxide enhanced extraction) was rejected for reasons including insufficient performance data to characterize the option and minimal improvement in control of pollutants beyond existing practices. Two options were analyzed in detail.

One option is based on oxygen delignification followed by bleaching with complete substitution of chlorine dioxide for elemental chlorine. The second option is a totally chlorine free (TCF) bleaching process. At present, there is one mill in the U.S. that bleaches papergrade sulfite pulp (the mill also bleaches dissolving sulfite pulp) using oxygen delignification and complete substitution of chlorine dioxide for chlorine. Pollutant loadings from production of papergrade sulfite pulp at this mill were used to develop Option 1. At present there are no mills in the U.S. that use a TCF process to bleach papergrade sulfite pulp. However, there are approximately ten mills in other countries (Austria, Canada, France, Germany, Sweden, Switzerland) that use TCF processes to bleach papergrade sulfite pulp. Information from those mills was used to analyze and develop Option 2.

Both regulatory options for this subcategory include these elements:

- Adequate wood chip size control, achieved by close control of chipping equipment tolerances or use of chip-thickness screens. Chip size control is assumed to pay for itself through improved yield (fewer rejects) and more consistent quality pulp;
- Elimination of defoamers containing dioxin precursors, which the Agency believes is uniformly practiced by the U.S. pulp industry; and
- Elimination of hypochlorite in the bleaching sequence.

In addition to these elements, the two regulatory options considered for the papergrade sulfite subcategory are as follows:

- *Option 1—Oxygen Delignification With Complete Substitution of Chlorine Dioxide for Chlorine*

As indicated above, this option is based on using oxygen delignification followed by bleaching with complete substitution of chlorine dioxide for elemental chlorine.

- *Option 2—Totally Chlorine Free Bleaching*

As indicated above, this option is based on totally chlorine free (TCF) bleaching processes used by mills in other countries. Although the bleach sequence at each mill varies, all are based on oxygen delignification or an extraction stage using oxygen and/or peroxide, followed by one or more peroxide bleaching stages. Some mills use other chemicals such as chelating agents or nitrilamine before, between, or in the peroxide bleaching stages.

The performance of each option was determined using data collected by the Agency during the Long-Term Study and additional data gathering described in section VIII.A. The Agency was not able to collect the same type of

performance data from TCF mills in other countries as for the U.S. mill. Effluent limitations for mills in other countries typically consist of only BOD, COD, and AOX, and therefore these are the only data available. The Agency has not been able to obtain data for individual toxic pollutants from any TCF mill. However, because chlorine and chlorine-containing compounds are not used at TCF mills, and because effluent AOX concentrations at TCF mills are very low, the Agency believes that concentrations of individual chlorinated compounds in wastewaters from TCF mills should not be detectable.

The Agency is proposing Option 2 for BAT effluent limitations guidelines for Subcategory E. Option 2 will achieve the maximum reduction in the discharge of pollutants to the environment compared to Option 1, primarily because no chlorine or chlorine-containing bleaching chemicals are used, and therefore, chlorinated pollutants are not formed. EPA estimates that Option 2 removes 5,250 metric tons per year of AOX, and 40 metric tons per year of toxic pollutants, compared to Option 1 which removes 4,460 metric tons per year of AOX, and 26 metric tons per year of toxic pollutants.

Under EPA's proposal, mills in the papergrade sulfite subcategory would have effluent limitations only for AOX but would have initial monitoring requirements for toxics (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be stopped if all results are non-detect.

At this time, the Agency does not have sufficient data for Option 2 to develop limitations for the non-chlorinated pollutants, acetone and methyl ethyl ketone, for mills in this subcategory. These pollutants are generated at mills in this subcategory and the Agency may develop limitations for these pollutants in the future when sufficient data are available.

The Agency has received preliminary information from some papergrade sulfite producers indicating that, for ammonium-base sulfite manufacturing of tissue and towel products, strength requirements may not be achievable with TCF processes. Also, for some other specialty grade pulps (for example, photographic and plastic molding pulps), the comments state that to be suitable for use, the pulp must be not only high in brightness, but have purity, uniform resin absorption rates, no electrical conductivity, no color reversion at high temperature, and high alpha cellulose content. Some of these producers have provided data for EPA to consider during the comment period. See section XIII of this preamble for solicitation of comments and data regarding these pollutants and product quality concerns raised in recent data submissions, and the data EPA is soliciting to define these concerns and alternative technologies beyond existing process technologies.

The Agency estimated that the total annualized cost of complying with Option 1 would be $42 million and that the cost of complying with Option 2 would be $25 million. The Agency estimated that Option 1 would result in four plant closures. Option 2 would result in two plant closures. The estimated employment loss associated with these plant closures is not reported here because the level of data aggregation is inadequate to protect confidential business information. Additional information on economic impacts, including summaries of employment effects, is presented in the economic impact analysis. Based on the foregoing information, the Agency concludes that Option 2 is economically achievable.

The Agency found that Option 2 would result in an incremental decrease in annual electrical power consumption of 0.89 MW over Option 1. The Agency did not find that the age of equipment and facilities involved, processes, or engineering aspects provided any basis for choosing Option 1 over Option 2. The Agency did not find any significant differences in non-water quality environmental impacts between Options 1 and 2.

EPA today also is proposing COD effluent limitations for the papergrade sulfite subcategory. These COD limitations were developed based on engineering evaluation of the best methods to control COD discharges. The COD effluent data used to develop the proposed effluent limitations were supplied by mills with their questionnaire responses.

The technology basis for the proposed COD effluent limitations consists of effective brownstock washing, closed brownstock pulp screen room operation, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. The first three technologies described above focus on preventing or capturing losses of pulping liquors and associated wood extractives and returning them to a heat or chemical recovery process. Closing screen rooms at older mills with open screen rooms is generally accomplished by reusing screen room decker filtrates as pulp dilution water ahead of the screens, or as wash liquor on a preceding stage of washing. BPT level secondary treatment reduces the biodegradable portion of COD that remains after process changes. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represents the best available technology for the control of COD. The Agency estimates that Option 2 will remove approximately 200,000 metric tons per year of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in this subcategory. No basis could be found for identifying different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. EPA has no data to suggest that the combination of technologies upon which COD effluent limitations are based significantly increase non-water quality environmental impacts.

In addition, the Agency concluded that the COD effluent limitations would be achievable based on the control technologies identified above. All costs for complying with the proposed COD effluent limitations, including the cost of closing screen room operations, were incorporated in the option-by-option economic impact analysis presented above and in section XI.B.

(5) Unbleached Kraft, Subcategory C. EPA today is proposing COD effluent limitations for the unbleached kraft subcategory. These COD limitations were developed based on engineering evaluation of the best methods to control COD discharges. The COD effluent data used to develop the proposed effluent limitations were supplied by mills with their questionnaire responses.

The technology basis for the proposed COD effluent limitations consists of effective brownstock washing, closed brownstock pulp screen room operation, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. The first three technologies described above focus on preventing or capturing losses of pulping liquors and associated wood extractives and returning them to a heat or chemical recovery process. Closing screen rooms at older mills with open screen rooms is generally accomplished by reusing screen room decker filtrates as pulp dilution water ahead of the screens, or as wash liquor on a preceding stage of washing. BPT level secondary treatment reduces the biodegradable portion of COD that remains after process changes. The

Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represents the best available technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in this subcategory. No basis could be found for identifying different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. EPA has no data to suggest that the combination of technologies upon which COD effluent limitations are based significantly increase non-water quality environmental impacts.

In addition, the Agency concluded that the COD effluent limitations would be achievable based on the control technologies identified above. All costs for complying with the proposed COD effluent limitations, including the cost of closing screen room operations, were incorporated in the economic impact analysis presented below and in section XI.B. Compliance with the proposed limitations is estimated to result in removal of approximately 326,000 metric tons per year of COD.

The Agency estimated that the total annualized cost of BMP and COD control in the unbleached kraft subcategory would be $5 million. The Agency projects no incremental plant closures or employment loss associated with these costs. Therefore, the Agency concluded that the COD effluent limitations for the unbleached kraft subcategory would be economically achievable. See also section XIII of this preamble for solicitation of comments and data.

(6) Semi-chemical Subcategory, Subpart F. The Agency today is proposing BAT effluent limitations to control COD. These COD limitations were developed based on engineering evaluation of the best methods to control COD discharges. COD data are not available for technologies that control losses of pulping liquors and wood extractives (e.g., BMPs, etc.) in this subcategory that contribute to the effluent toxicity discussed in section IX.C. However, the Agency is transferring data from the unbleached kraft subcategory as the basis for the proposed effluent limitations. The pulping processes in the unbleached kraft subcategory are similar to those used in the semi-chemical subcategory, and therefore the Agency has concluded that the data transfer is appropriate. The COD effluent data used to develop the proposed effluent limitations, as transferred from the unbleached kraft subcategory, were supplied by mills with their questionnaire responses.

The technology basis for the proposed COD effluent limitations consists of effective brownstock washing, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. The first two technologies described above focus on preventing or capturing losses of pulping liquors and associated wood extractives and returning them to a heat or chemical recovery process. Screening is usually omitted from semi-chemical pulp mills. Therefore, closed screen room operation is not included as part of the technology basis for the COD control at semi-chemical mills. BPT level secondary treatment reduces the biodegradable portion of COD that remains after process changes. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represent the best available technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in this subcategory. No basis could be found for identifying different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. EPA has no data to suggest that the combination of technologies upon which COD effluent limitations are based significantly increase non-water quality environmental impacts.

In addition, the Agency concluded that the COD effluent limitations would be achievable based on the control technologies identified above. All costs for complying with the proposed COD effluent limitations, including the cost of improved brownstock washing and BMPs, were incorporated in the economic impact analysis presented below and in section XI.B. Compliance with the proposed limitations is estimated to result in removal of 60,700 metric tons per year of COD.

The Agency estimated that the total annualized cost of BMP and COD control would be approximately $7 million. The Agency projects no incremental mill closures or employment losses associated with these costs. Therefore, the Agency concluded that the COD effluent limitations for the semi-chemical subcategory would be economically achievable.

4. New Source Performance Standards

a. *Introduction*. The Agency today is proposing revised NSPS for the following subcategories:

A. Dissolving Kraft
B. Bleached Papergrade Kraft and Soda
C. Unbleached Kraft
D. Dissolving Sulfite
E. Papergrade Sulfite
F. Semi-Chemical
G. Mechanical Pulp
H. Non-Wood Chemical Pulp
I. Secondary Fiber Deink
J. Secondary Fiber Non-Deink
K. Fine and Lightweight Papers from Purchased Pulp
L. Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp

New mills have the opportunity to incorporate the best available demonstrated technologies, including process changes, in-plant controls, and end-of-pipe treatment technologies.

b. *Definitions of New Source*. EPA's NPDES regulations define the term "new source" at 40 CFR 122.2 and 122.29. Pursuant to those regulations, to be a "new source" a source must:

- Be constructed at a site at which no other source is located,
- Totally replace the process or production equipment that causes the discharge of pollutants at an existing source, or
- Be a process substantially independent of an existing source at the same site, considering the extent of integration with the existing source and the extent to which the new facility is engaged in the same general type of activity as the existing source. 40 CFR 122.29(b).

The application of these definitions to particular permitting situations has sometimes caused controversy. In the pulp and paper industry, for example, dischargers, permitting authorities and others have sometimes disagreed concerning a particular facility's status as a "new source" under the foregoing definitions. The determination can be important, because new sources are generally subject to more stringent limits than existing sources.

EPA today is proposing supplemental definitions of the term "new source," applicable to the effluent limitations guidelines for the pulp and paper industry only. These definitions would supplement, rather than replace, EPA's existing regulations defining the term "new source" under the CWA. See 40 CFR 122.2 and 122.29. These definitions are intended to be consistent with EPA's existing regulations defining the term "new source" under the CWA, and are proposed in order to provide NPDES permit writers and other interested parties with more specific rules to

follow in determining new source status at facilities in the pulp, paper and paperboard industry. These proposed definitions would not affect the definition of "new source" for purposes of the NESHAP portion of these integrated rules.

The supplemental definitions EPA is proposing today are as follows:

(1) The following are examples of "new sources" within the pulp, paper and paperboard industry:

(i) At chemical pulp mills with bleaching operations (Subcategories A, B, D and E): The construction, within any five year period, of a new pulping digester or pulping digester that completely replaces an existing digester, in combination with a new bleaching facility or bleaching facility that completely replaces an existing bleaching facility.

(ii) At existing chemical pulp mills without bleaching operations (Subcategories C, F, and H) a new pulping digester(s), or a new pulping digester(s) that totally replaces existing pulping digester(s).

(iii) At mechanical, secondary fiber, and nonintegrated mills (Subcategories G, I, J, K, and L): a new paper or paperboard machine, or a paper or paperboard machine that totally replaces an existing paper or paperboard machine.

(2) The following are examples of changes that alone do not cause an existing mill to become a "new source":

(i) Upgrades of existing pulping operations;

(ii) Upgrades or replacement of pulp screening and washing operations;

(iii) Installation of oxygen delignification systems or other post-digester, prebleaching delignification systems; and,

(iv) Bleach plant modifications including changes in method or amounts of chemical applications, new chemical applications, installation of new bleaching towers to facilitate replacement of sodium or calcium hypochlorite, and installation of new pulp washing systems.

c. *NSPS Options and Selection.* (1) Bleached Papergrade Kraft and Soda Subcategory, Subpart B.

EPA today is proposing New Source Performance Standards (NSPS) for 21 toxic, nonconventional and conventional pollutants for the papergrade kraft and soda subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants. EPA today is proposing New Source Performance Standards for 19 toxic and nonconventional pollutants for the papergrade kraft and soda subcategory. In developing NSPS for the papergrade kraft and soda subcategory, EPA evaluated four technologies described in section IX.E.3.C.1. The four technologies are: (i) the option described as "Option 4" (which is the option selected as EPA's proposed technology basis for BAT for this subcategory); (ii) the option described as "Option 5;" (iii) an ozone-based bleaching technology currently being implemented at a U.S. mill, and (iv) a TCF technology currently being implemented at a U.S. mill. EPA is today proposing the technology labeled "Option 5" as the NSPS technology basis for this subcategory.

EPA selected Option 5 as the technology basis for NSPS in the papergrade kraft and soda subcategory because EPA believes that no available technology achieves better control of toxic and nonconventional pollutants. The Agency's conclusions concerning the pollution control capabilities of Option 5 are based upon engineering judgment and the fact that Option 5 combines different pollution control technologies not combined in any other option. Specifically, Option 5 combines both oxygen delignification and extended cooking (followed by 100 percent substitution of chlorine dioxide for elemental chlorine). These are two proven delignification technologies that contribute to the control of toxics and nonconventionals. Option 5 has been implemented by at least two papergrade kraft mills in the U.S. producing high brightness market pulps (88–90 percent ISO) from softwoods. One of these mills has supplied analytical data for bleach plant and end-of-pipe sampling points largely identical in scope (but shorter in duration) and methods to the Agency's long-term study. The Agency is not aware of any reason, based on principles of science or technology, that the combination of oxygen delignification and extended cooking (followed by 100 percent substitution by chlorine dioxide for elemental chlorine) would produce inferior pollution control than either oxygen delignification or extended cooking alone. The Agency notes that the data described above do not confirm the foregoing conclusion; indeed the data received show a few pollutants (chloroform, MEK, 4,5,6-trichloroguaiacol, AOX, COD, color) present in slightly greater quantities at a mill using Option 5 than at a mill using Option 4. The Agency believes that these results are attributable to site-specific characteristics of the mills in question and not attributable to any inherent differences between Option 4 and Option 5. The Agency is not proposing NSPS for some pollutants where reliable data is not available in this subcategory at this time (chloroform, MEK, 4,5,6-trichloroguaiacol, AOX, COD, color), and is soliciting additional data for this technology as described in section XIII of this preamble. The data being used as a basis for the proposed NSPS are presented in the water technical development document along with the methodology for establishing numerical limitations.

In addition to the option selected, EPA considered the same option described as "Option 4" in the discussion of the basis for the proposed BAT limitations. EPA rejected this option (extended cooking or oxygen delignification with complete substitution by chlorine dioxide for elemental chlorine) because it does not provide, based upon available data and engineering judgment as discussed above, the most stringent pollutant reductions. The Agency believes this is true because Option 4 neither provides for as high a degree of lignin removal (as measured by kappa numbers) or pulping chemical recovery, nor provides for the greatest reduction in bleaching chemical usage as the selected option.

EPA also considered an ozone-based process technology as a possible technology basis for NSPS. This technology is currently being used in the integrated mill segment of this subcategory to produce pulps of somewhat lower brightness (80–86 percent ISO) than market pulps. The process technology being considered is based on oxygen delignification followed by ozone bleaching, oxygen and peroxide enhanced extraction, followed by final chlorine dioxide brightening as applied at a U.S. mill. EPA did not select this option because this process has only recently been implemented and adequate data are not available. However, the Agency recently has cooperatively sampled this process with assistance from the mill. Analytical data from this mill not claimed as confidential business information now are available and those data, that have been preliminarily analyzed for acceptable performance of the analytical methods, have been included in the record of this proposed rulemaking. Further thorough engineering and statistical analysis of these data and any preliminary limitations that may be appropriate will be made available at a

later date for review and comment. The Agency further anticipates that additional sampling and analysis of wastewaters at this mill will be undertaken at a later date to be determined in concert with the mill. Analysis of the cost and effluent reductions achieved by this technology, and the energy and non-water quality environmental impacts will be completed when appropriate.

Finally, the Agency considered a TCF process technology that one U.S. mill is currently in the process of implementing for pulps of lower brightness. This U.S. mill has committed to installing a totally chlorine-free (TCF) process. While the details of this process are not yet completed, the mill has committed to producing and marketing a pulp with brightness of 75–80 percent ISO by 1995. EPA did not select this option because this process is still being implemented and adequate data are not available. The Agency has solicited trial data from this mill in order to characterize the wastewaters and potential air emissions from this process.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that two currently operating mills are using this technology. The Agency also considered energy requirements and other non-water quality environmental impacts for the selected NSPS option. In light of the increased chemical recovery and reduced operating costs for this option, EPA concluded that the energy and non-water quality impacts were no greater and probably less than for the selected BAT technology option.

The Agency is also proposing today to include an alternative set of effluent limitations applicable to any wastewaters from TCF bleaching processes at new source mills in this subcategory. EPA is proposing these alternative limitations to provide mills with an incentive to eliminate or nearly eliminate the generation and discharge of chlorinated organic pollutants by using totally chlorine-free processes. These mills would be required initially to certify to the permitting authority that their process is totally chlorine-free. The alternative limitations applicable to the wastewaters from TCF bleaching processes would not include any limitations on chlorinated organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) at the bleach plant or end-of-pipe, except for AOX. These mills would have limitations only for AOX, and also would have initial monitoring requirements for specific toxic organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be terminated if all analytical results in a specified series of sampling events are non-detect.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the papergrade kraft and soda subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that one currently operating mill is using this technology. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(2) Dissolving Kraft Subcategory, Subpart A. EPA today is proposing New Source Performance Standards (NSPS) for 22 toxic, nonconventional, and conventional pollutants for the dissolving kraft subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants—EPA today is proposing New Source Performance Standards for 20 toxic and nonconventional pollutants for the dissolving kraft subcategory. The technology basis for these performance standards is the same technology described as "Option 2" in the discussion of proposed BAT limitations for this subcategory (*see* discussion in section IX.E.3.C.5). That option consists of the most stringent demonstrated technology option for this subcategory. The Agency is proposing control of toxic or nonconventional pollutants equal to BAT as NSPS for this subcategory. The technology basis for the proposed BAT effluent limitations for the dissolving kraft subcategory (oxygen delignification and 70 percent substitution of chlorine dioxide for elemental chlorine, and elimination of hypochlorite) was transferred from the papergrade kraft and soda subcategory.

EPA believes, as described in the development of BAT limitations, that the transfer of technology from the papergrade kraft and soda subcategory to the dissolving kraft subcategory is appropriate and applicable. Based on the cost information available to EPA, the Agency has no reason to believe that the costs of this technology would be a barrier to entry in the dissolving kraft subcategory. The Agency considered energy requirements and other non-water quality environmental impacts for the selected NSPS option. The energy and non-water quality impacts were no greater than for the selected BAT technology option.

As noted in the discussion of the basis for BAT for this subcategory, the Agency received comments regarding the ability of mills to maintain acceptable product quality without the use of hypochlorite to maintain intrinsic viscosity and other product quality parameters. The Agency is soliciting additional detailed data from individual mills in order to address this concern (see section XIII).

The Agency is also proposing today to include an alternative set of effluent limitations applicable to any wastewaters from TCF bleaching processes at new source mills in this subcategory. EPA is proposing these alternative limitations to provide mills with an incentive to eliminate or nearly eliminate the generation and discharge of chlorinated organic pollutants by using totally chlorine-free processes. These mills would be required initially to certify to the permitting authority that their process is totally chlorine-free. The alternative limitations applicable to the wastewaters from TCF bleaching processes would not include any limitations on chlorinated organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) at the bleach plant or end-of-pipe, except for AOX. These mills would have limitations only for AOX, and also would have initial monitoring requirements for specific toxic organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be terminated if all analytical results in a specified series of sampling events are non-detect.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the dissolving kraft subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of

performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(3) Unbleached Kraft Subcategory, Subpart C. EPA today is proposing New Source Performance Standards (NSPS) for three nonconventional and conventional pollutants for the unbleached kraft subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Nonconventional Pollutant—EPA today is proposing New Source Performance Standards for the nonconventional pollutant COD for the unbleached kraft subcategory. The technology basis for these performance standards is the same technology described in the discussion of proposed BAT limitations for this subcategory (*see* discussion in section IX.E.3.C.5). That option consists of the most stringent demonstrated COD control technology option for this subcategory.

The technology basis for the proposed COD effluent limitations consists of effective brownstock washing, closed brownstock pulp screen room operation, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. These technologies have been widely demonstrated across chemical pulp mills in this industry and are readily incorporated in new mills in this subcategory. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represent the best available demonstrated technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality impacts pertinent to mills in this subcategory. The Agency did not identify different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. The combination of technologies upon which COD effluent limitations are based do not significantly increase non-water quality environmental impacts.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating mills are using this technology. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the Unbleached Kraft Subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(4) Dissolving Sulfite Subcategory, Subpart D. EPA today is proposing New Source Performance Standards (NSPS) for 21 toxic, nonconventional and conventional pollutants for the dissolving sulfite subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Nonconventional Pollutant—EPA today is proposing New Source Performance Standards for 19 toxic and nonconventional pollutants for the dissolving sulfite subcategory. In developing NSPS for the dissolving sulfite subcategory, EPA evaluated the two technologies described in section IX.E.3.c.3. These two technologies are oxygen delignification followed by complete substitution of elemental chlorine with chlorine dioxide ("Option 1") and totally chlorine-free bleaching ("Option 2").

EPA selected Option 1 as the technology basis for NSPS in the dissolving sulfite subcategory because EPA believes that no available technology achieves better control of toxic and nonconventional pollutants. As set forth in Section IX.E.3.c.3, information recently supplied by dissolving sulfite producers raises questions concerning the ability of dissolving sulfite mills to meet all product specifications using Option 2 (TCF technologies). EPA does, however, consider TCF to be an available technology for many products within this subcategory at this time. EPA solicits comments and data on whether this subcategory should be further divided, based on product specifications or otherwise, for purposes of establishing NSPS.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that at least one currently operating U.S. mill is using this technology. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS.

The Agency is not proposing NSPS limits for COD for this subcategory. COD data that reflects available technologies to control refractory pollutants that originate in the pulping and recovery areas of mills (e.g., closed screen rooms, BMPs, etc.) are not available at this time for this subcategory. The methodology for deriving COD limitations is described in the preceding sections that present the basis for BAT limitations for the bleached papergrade kraft and soda subcategory, and the dissolving kraft subcategory. See also Section XIII of this preamble for solicitation of comments and data. The Agency may develop COD NSPS limits for this subcategory when data become available.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the dissolving sulfite subcategory equal to the proposed BPT effluent limitations. The basis for the BPT effluent limitations developed by EPA is described in section IX.E.1.

EPA concluded for the dissolving sulfite subcategory that the cost of upgrading conventional pollutant control technology would be economically achievable, and that the new conventional pollutant limitations would be achievable at existing mills in this subcategory. Therefore, the Agency concluded that the incremental cost for installing this technology would be no barrier to entry of a new mill in this subcategory. The Agency considered energy requirements and other non-water quality environmental impacts

and found no basis for any different standards than the selected NSPS for conventional pollutants.

(5) Papergrade Sulfite Subcategory, Subpart E. EPA today is proposing New Source Performance Standards (NSPS) for four nonconventional and conventional pollutants for the papergrade sulfite subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Nonconventional Pollutants—EPA today is proposing New Source Performance Standards for two nonconventional pollutants for the papergrade sulfite subcategory. First, the Agency is proposing control of the nonconventional pollutant AOX equal to BAT as NSPS for this subcategory. The technology basis for the AOX standard is totally chlorine-free process technology, which is the same technology described as "Option 2" in the discussion of proposed BAT limitations for this subcategory (*see* discussion in section IX.E.3.c.4). That option consists of the most stringent demonstrated technology option for this subcategory. New mills would have initial monitoring requirements for specific toxic organic pollutants (i.e., TCDD, TCDF, chloroform, methylene chloride, chlorinated phenolic compounds) which could be terminated if all analytical results in a specified series of sampling events are non-detect.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating mills in Europe are using this technology. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

Mill-specific data received recently by the Agency indicates that certain of the higher grade papergrade products may not be made with acceptable quality by TCF process technology. Papergrade sulfite mills in the U.S. currently are not using this technology for certain of the products being made. However, approximately ten mills in European countries are utilizing TCF process technologies. The Agency is soliciting additional detailed data from individual mills in order to address this concern. See section XIII of this preamble.

EPA today is proposing New Source Performance Standards for the nonconventional pollutant COD for the papergrade sulfite subcategory. The technology basis for this standard is the same technology described in the discussion of proposed BAT limitations for this subcategory (*see* discussion in section IX.E.3.c.4). That option consists of the most stringent demonstrated COD control technology option for this subcategory. The Agency is proposing control of the nonconventional pollutant COD equal to BAT as NSPS for this subcategory. The technology basis for the proposed NSPS limitations consists of effective brownstock washing, closed brownstock pulp screen room operation, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. These technologies have been widely demonstrated across chemical pulp mills in this industry and are readily incorporated in new mills in this subcategory. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represent the best available demonstrated technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in this subcategory. The Agency did not identify different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. The combination of technologies upon which COD effluent limitations are based do not significantly increase non-water quality environmental impacts.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating mills are using these technologies. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the papergrade sulfite subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(6) Semi-Chemical Subcategory, Subpart F. EPA today is proposing New Source Performance Standards (NSPS) for three nonconventional and conventional pollutants for the semi-chemical subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Nonconventional Pollutant—EPA today is proposing New Source Performance Standards for the nonconventional pollutant COD for the semi-chemical subcategory. The technology basis for these performance standards is the same technology described in the discussion of proposed BAT limitations for this subcategory (see discussion in section IX.E.3.c.6). That option consists of the most stringent demonstrated COD control technology option for this subcategory. The technology basis for the proposed COD effluent limitations consists of effective brownstock washing, application of pulping liquor spill prevention and control (BMPs), and BPT level secondary treatment performance. These technologies have been widely demonstrated across chemical pulp mills in this industry and are readily incorporated in new mills in this subcategory. The Agency was not able to identify other technologies for controlling COD, and therefore concluded that this combination of technologies represent the best available demonstrated technology for the control of COD.

The Agency considered the age, size, processes, other engineering factors, and non-water quality impacts pertinent to mills in this subcategory. The Agency did not identify different COD effluent limitations within this subcategory based on age, size, processes, or other engineering factors. The combination of technologies upon which COD effluent limitations are based do not significantly increase non-water quality environmental impacts.

EPA considered the cost of the proposed NSPS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating mills are using these technologies. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the semi-chemical subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(7) Mechanical Pulp Subcategory, Subpart G. EPA today is proposing New Source Performance Standards (NSPS) for conventional pollutants for the mechanical pulp subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants—NSPS for toxic and nonconventional pollutants are not being proposed pending further study. See the solicitation of comments in section XIII.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the mechanical pulp subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(8) Non-Wood Chemical Pulp Subcategory, Subpart H. EPA today is proposing New Source Performance Standards (NSPS) for conventional pollutants for the non-wood chemical pulp subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants—As noted in section IX.C.2.c., EPA has received data indicating the presence of certain toxic chlorinated organic compounds due to the use of limited bleaching processes at mills in this subcategory. However, the data are not sufficient to propose NSPS for toxic and nonconventional pollutants at this time. See the solicitation of comments in section XIII.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the non-wood chemical pulp subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(9) Secondary Fiber Deink Subcategory, Subpart I. EPA today is proposing New Source Performance Standards (NSPS) for conventional pollutants for the secondary fiber deink subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants—As noted in section IX.C., EPA has received data indicating the presence of certain toxic chlorinated organic compounds due to the use of limited bleaching processes at mills in this subcategory. However, the data are not sufficient to propose NSPS for toxic and nonconventional pollutants at this time. See the solicitation of comments in section XIII.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the secondary fiber deink subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(10) Secondary Fiber Non-Deink Subcategory, Subpart J. EPA today is proposing New Source Performance Standards (NSPS) for conventional pollutants for the secondary fiber non-deink subcategory. EPA is also proposing NSPS for toxic and nonconventional pollutants for a portion of this subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

For purposes of these proposed NSPS, EPA divided this subcategory into two segments. Segment A is comprised of those mills that produce paperboard, builder's paper or roofing felt. Segment B is comprised of those mills that produce other products. The decision to segment this subcategory was based upon EPA's finding that many mills making paperboard, builder's paper or roofing felt operate with zero discharge of wastewater. EPA lacked reliable data to indicate that mills producing other products operated with zero discharge, or that zero discharge of wastewaters

was a demonstrated technology for producers of these other products.

According to the 1990 Census and other information, EPA concluded that 21 mills in this subcategory operate with zero discharge of process wastewater. Of these 21 mills, 15 mills manufacture paperboard from wastepaper, and six mills manufacture builders' paper and roofing felt. Zero discharge is defined as a system where the sum of fresh water and water entering the system in raw materials is equal to the sum of water exiting the system via evaporation/vaporization, water in the final product, and water included in any rejects streams from screening, including sludges.

Paperboard, Builders' Paper and Roofing Felt Segment. This segment includes production of paperboard and builders' paper and roofing felt from wastepaper that has not undergone deinking processes. The Agency developed and analyzed two regulatory options for NSPS for this segment of the Secondary Fiber Non-deink Subcategory as follows:

Option 1: Secondary Treatment Performance at the Level of the Best Mill in the Segment
Option 2: Zero Discharge of Wastewater Achieved by 100 Percent Recycle of Wastewater

The Agency is proposing Option 2, zero discharge of wastewater achieved by 100 percent recycle of wastewater, for the Paperboard, Builders' Paper and Roofing Felt Segment. The Agency selected this option because (1) the technology is demonstrated by a significant number of mills as discussed above, (2) the environmental benefit is the greatest as a result of zero discharge of TSS and BOD_5, and (3) the barrier to entry costs are minimal because increased costs to achieve 100 percent recycle of wastewater are significantly offset by reduced costs for raw water, energy, and elimination of wastewater treatment costs, when the recycle equipment required is included in the design and construction of a new mill. Because 21 mills in this segment operate with zero discharge of process wastewater, the Agency concludes that these costs do not present a barrier to entry for a new mill. The Agency rejected Option 1 because any discharge of conventional pollutants is not as stringent as a standard based on 100 percent recycle and no discharge of process wastewater. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

Producers of Other Products from Non-Deink Secondary Fiber Segment. This segment includes production of secondary fiber products that have not undergone deinking processes, except for production of paperboard, builders' paper and roofing felt from wastepaper that has not undergone deinking processes. Data from EPA's 1990 Census indicate that some mills in this segment may achieve zero discharge through 100 percent recycle of wastewaters. However, EPA was unable to confirm this information or determine which products are made by some mills in this segment that may be achieving zero discharge. EPA solicits comments and data on the extent to which secondary fiber nondeink mills other than those making paperboard, builders' paper or roofing felt are achieving zero discharge through 100 percent recycle of wastewater, and whether this technology should serve as the technology basis for NSPS for the entire secondary fiber nondeink subcategory.

(i) Toxic and Nonconventional Pollutants—EPA has received data indicating the presence of certain toxic chlorinated organic compounds due to the use of limited bleaching processes at mills in this segment of this subcategory. However, the data are not sufficient to propose NSPS for toxic and nonconventional pollutants at this time. See the solicitation of comments in section XIII.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for this segment of the secondary fiber non-deink subcategory. Based upon data available for this segment, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non- water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

EPA considered not segmenting this subcategory, and proposing NSPS for the entire Secondary Fiber Non-Deink Subcategory as zero discharge of wastewater. This alternative was rejected because the Agency does not believe that this technology basis for NSPS is adequately demonstrated for producers of final products other than paperboard, builder's paper or roofing felt. EPA also considered not segmenting this subcategory, and proposing NSPS for the entire Secondary Fiber Non-Deink Subcategory as the most stringent demonstrated level of performance for the control of BOD_5 and TSS at mills not achieving zero discharge of wastewater in this subcategory. This alternative was rejected because the Agency believes that zero discharge is a demonstrated technology in a discrete segment of this subcategory and that segmenting the subcategory was feasible, from a technical and administrative standpoint, and would provide superior pollution control.

(11) Fine and Lightweight Papers from Purchased Pulp Subcategory, Subpart K. EPA today is proposing New Source Performance Standards (NSPS) for conventional pollutants for the fine and lightweight papers from purchased pulp subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants—EPA is not proposing NSPS for this subcategory for toxic and nonconventional pollutants, pending further study.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the fine and lightweight papers from purchased pulp subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

(12) Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp Subcategory, Subpart L. EPA today is proposing New Source Performance Standards (NSPS) for conventional pollutants for the tissue, filter, non-woven, and paperboard from purchased

pulp subcategory. These standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Toxic and Nonconventional Pollutants—EPA is not proposing today NSPS for toxic and nonconventional pollutants pending further study.

(ii) Conventional Pollutants—EPA today is proposing New Source Performance Standards for BOD_5 and TSS for the tissue, filter, non-woven, and paperboard from purchased pulp subcategory. Based upon data available for this subcategory, the technology basis for these standards represents the most stringent demonstrated level of performance for the control of BOD_5 and TSS in this subcategory.

EPA concluded that, because one currently operating mill in this subcategory has demonstrated the performance of the conventional pollutant control technology, the costs are not so great as to present a barrier to entry of a new mill. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS for conventional pollutants.

5. Pretreatment Standards for Existing Sources

The Agency today is proposing to establish pretreatment standards for existing sources (PSES) in the pulp, paper and paperboard industry. These standards would apply to all existing mills in the bleached papergrade kraft and soda, unbleached kraft, papergrade sulfite, and semi-chemical subcategories that indirectly discharge wastewater to publicly owned treatment works (POTWs). There are a total of 13 indirect discharging mills and associated POTWs in these four subcategories, as follows: nine mills in the bleached papergrade kraft and soda subcategory; one mill in the papergrade sulfite subcategory; two mills in the unbleached kraft subcategory; and one mill in the semi-chemical subcategory. The Agency is individually identifying the 13 associated POTWs to facilitate comment on these proposed PSES. The 13 POTWs are Gulf Coast Waste Disposal Authority, Pasadena, Texas; Muskegon County Wastewater Management System, Muskegon, Michigan; Upper Potomac River Commission, Westernport, Maryland; City of St. Helens, St. Helens, Oregon; Jackson County Port Authority, Pascagoula, Mississippi; Western Lake Superior Sanitary District, Duluth, Minnesota; Bay County Waste Treatment Plant No. 1, Panama City, Florida; Erie City Wastewater Treatment Facility, Erie, Pennsylvania; City of Port St. Joe Wastewater Treatment Plant, Port St. Joe, Florida; Peshtigo Joint Wastewater Treatment Facility, Peshtigo, Wisconsin; Hopewell Regional Wastewater Treatment Facility, Hopewell, Virginia; Macon-Bibb County Water and Sewerage Authority, Macon, Georgia; and Water Pollution Control Plant, Plattsburgh, New York.

Pretreatment standards are established to prevent pass-through of pollutants from POTWs to waters of the U.S., or to prevent pollutants from interfering with the operation of POTWs. CWA § 307(b). EPA is establishing PSES for this industry to prevent pass-through of the same pollutants controlled by BAT from POTWs to waters of the U.S.

a. *Pass-Through Analysis.* To determine whether pollutants indirectly discharged by mills in this industry pass-through POTWs, EPA reviewed sampling data for direct dischargers, performance data for POTWs, and technical literature. Based on preliminary review of circumstances at some of the POTWs receiving pulp and paper mill effluent, and EPA's best engineering judgment, EPA concludes that biological treatment systems at these POTWs, while designed to accommodate pulp and paper wastewaters, are not designed to the same standards as those installed and operated at direct discharging mills. Activated sludge systems and aerated stabilization basin systems, as designed and operated at direct discharging mills, typically include substantially longer detention times and other features that in combination achieve greater removals of BOD_5 and TSS than are achieved at POTWs receiving effluent from these mills. This is evidenced by the fact that the BPT and BCT effluent limitations EPA is proposing for certain subcategories are substantially more stringent than the secondary treatment effluent limitations applied to most POTWs (30 mg/l each of BOD_5 and TSS). Therefore, the Agency concludes that BOD_5 and TSS pass-through these POTWs. Although the Agency is not proposing pretreatment standards for BOD_5 and TSS today, EPA solicits comments and data on whether discharges of these conventional pollutants should be addressed with PSES and PSNS regulations.

In addition, the Agency concluded that other pollutants, including AOX, COD, and (for the bleached papergrade kraft and soda subcategory only) color, also pass-through POTWs. In part, this is because these toxic and nonconventional pollutants typically are less biodegradable than the conventional pollutant parameters (BOD_5 and TSS). For example, biological treatment systems at direct discharging pulp and paper mills (for which EPA has data) remove approximately 40 percent of the influent AOX, which is representative of chlorinated organic compounds. The literature indicates that the biodegradability of certain chlorinated organic compounds varies in comparison to AOX, but generally these compounds are less biodegradable than nonchlorinated biodegradable organic matter measured as BOD_5. The Agency does not have detailed analytical data from POTWs for these and other pollutants of concern in this industry to serve as the basis for a detailed, quantitative pass-through analysis. However, in view of the lower removal of conventional pollutants achieved at POTWs in comparison to the removals being proposed for direct dischargers in this industry, the Agency concludes that AOX, COD, and color (for the bleached papergrade kraft and soda subcategory) also pass-through these POTWs.

Because EPA believes that dioxin and furan, and certain other pollutants, cannot practicably or feasibly be controlled with limits at the point of discharge to the POTW, EPA is today proposing PSES and PSNS limits for those pollutants at the end of the bleach plant. The Agency's sampling data show that dioxins and furans can only be effectively removed by process changes. Dioxins and furans are known to become associated with suspended solids in process wastewaters. Internal stream pretreatment technologies (e.g., ultrafiltration) and end-of-pipe treatment technologies (e.g., chemical precipitation and clarification, and filtration) are not capable of removing sufficient quantities of total suspended solids (TSS) to achieve the same bleach plant or end-of-pipe dioxin and furan concentrations (i.e., below detection limits) as achieved through process changes. Therefore, without process changes and bleach plant limits, dioxins and furans would pass-through POTWs. Moreover, removal of dioxin and furan from wastewaters using only end-of-pipe treatment would substantially increase, rather than decrease, the dioxin and furan concentrations in wastewater treatment system sludges, thereby further limiting POTWs sludge disposal alternatives. Similarly, volatile

organic compounds, such as chloroform (which is a hazardous air pollutant), will be liberated from process wastewaters to the atmosphere in collection, conveyance, and aeration systems, and thus are best removed in bleach plants through process changes. These circumstances lead to pass-through and unacceptable non-water quality environmental impacts on sludges and air emissions. Moreover, certain of the volatile organics are hazardous air pollutants subject to control under the Clean Air Act in this integrated rulemaking. Because it is neither practical nor feasible to set limits for some pollutants at the point of discharge to the POTW sewer, EPA is proposing to set PSES limits for those pollutants inside the mill, at the bleach plant, in a similar fashion as proposed today in revising BAT limits for the direct discharging mills.

b. *Options Considered.* The first option, which EPA is proposing today as PSES, would set effluent limitations on the same pollutants controlled with BAT limits for direct dischargers, at the point of discharge from the indirect discharging mill to the industrial POTW as well as at certain internal bleach plant wastewater streams. These limitations were developed based on the same technologies as proposed today for BPT and for BAT, as applicable to each of the affected subcategories. PSES set at these points would prevent pass-through of pollutants, help control sludge contamination and reduce air emissions.

EPA estimated the cost of complete secondary treatment facilities at the indirect discharging mills, and where necessary, the cost of primary treatment. These costs were found to be economically achievable. EPA did not consider the availability of land for installation of the secondary biological treatment systems on a site-by-site basis in developing these proposed PSES regulations. EPA solicits comments and data concerning the availability of sufficient land for such treatment systems at mills subject to these PSES limits.

The Agency estimated the compliance costs and economic impacts of process changes, COD control, and BMP for each of the mills subject to bleach plant and final effluent pretreatment standards. The summary of results presented here is summed across indirect dischargers in all subcategories. The estimated total annualized cost for the selected options is approximately $33 million. The Agency estimated that these costs would result in one plant closure. Additional details are not reported in this section because the level of data aggregation is inadequate to protect confidential business information. Additional information is provided in the economic impact analysis.

The Agency considered the age, size, processes, other engineering factors, and non-water quality environmental impacts pertinent to mills in developing PSES. The Agency did not identify any basis for establishing different PSES limitations based on age, size, processes, or other engineering factors. EPA has no data to suggest that the combination of technologies upon which PSES limitations are based significantly increase non-water quality environmental impacts.

EPA considered a second option in establishing PSES limits for today's rule. This option may provide a more cost-effective way of obtaining the effluent reductions obtained under Option 1.

Under this second option, EPA would establish PSES limits identical to those established under the first option. However, EPA would also provide that, in the event the POTW receiving a mill's discharge voluntarily accepted certain limits in a legally enforceable NPDES permit, that mill would no longer be subject to those PSES limits that apply at the mill's discharge to the POTW's sewer. (The bleach plant limits would still apply). The additional limits in the POTW's permit would cover all pollutants for which the mill would otherwise have had PSES limits at the point of discharge to the sewer, and would in each case need to be at least as stringent as the BAT limits for the pollutants in question applicable to direct dischargers in the subcategory.

EPA's interest in this second alternative is based in part on the fact that, in the four subcategories for which EPA is proposing PSES limits, all of the affected POTWs receive a majority of either flow, BOD_5 loadings or TSS loadings from pulp and paper mills. The Agency refers to such POTWs as "industrial POTWs." The Agency believes that, in some cases, upgrading of these "industrial" POTWs' secondary biological treatment system would be more cost-effective than installing a complete biological treatment system on the mill site. EPA also notes that, even beyond these four subcategories, a very large percentage of indirect-discharging mills in this industry dominate the POTWs into which they discharge (i.e., those mills contribute more than half of the flow or BOD_5 and TSS loadings of the treatment works). In calculating the POTW's limits, the percentage of the POTW's flow from domestic sources and from industrial sources other than pulp, paper and paperboard mills would also be considered.

EPA notes that its secondary treatment regulations provide, at 40 CFR 133.103, for adjustment of POTW BOD_5 and TSS effluent limitations in cases where industrial effluent guidelines include less stringent BOD_5 and TSS effluent limitations than required by secondary treatment. EPA solicits comment on whether the regulations should be amended to explicitly allow for more stringent BOD_5 and TSS effluent limitations for industrial POTWs in industries with effluent limitations guidelines that include BOD_5 and TSS limits more stringent than secondary treatment.

The Agency has developed costs for upgrading the biological treatment systems at each of the affected POTWs. These costs are set forth in section IX.G.

The Agency also considered a third option under which EPA would not promulgate PSES limits for these mills. Under this option, pretreatment authorities would use best engineering judgment to develop local limits for the mills, and end-of-pipe limits for these industrial POTWs. The Agency is concerned that this would impose difficult or unrealistic administrative burdens on POTWs. This option also may not achieve the same levels of discharge by the industrial POTWs as for direct dischargers.

EPA solicits comments and data on all three options described above. In particular, EPA solicits comments and data on any legal or practical issues presented by the second option described above, as well as any cost savings that the second option might provide.

c. *Solicitation of Comments and Data on Additional Subcategories.* Beyond the foregoing three options, EPA solicits comments on whether the Agency should develop PSES limits for conventional pollutants in subcategories other than the four in which the Agency is today proposing PSES limits. The conventional pollutant limitations for direct dischargers proposed today in all subcategories of the pulp and paper industry are more stringent than EPA's secondary treatment requirements for POTWs. Therefore, the conventional pollutants discharged from pulp and paper mills would pass through POTWs. The Agency has identified 19 additional industrial POTWs in the pulp and paper industry, in the following subcategories: mechanical pulp; deink secondary fibers; non-deink secondary fibers; fine and lightweight papers from purchased pulp; tissue, filter, non- woven, and paperboard from purchased pulp. EPA further solicits comments on whether any PSES limits should cease to apply at mills discharging to those POTWs if

the POTW voluntarily accepted sufficiently stringent limits on the discharge of conventional pollutants in its NPDES permit. The Agency believes that upgrading of an industrial POTW's secondary biological treatment system might be more cost-effective than installing a complete biological treatment system at some mills.

See section XIII of this preamble for solicitation of comments and data for the proposed PSES.

6. Pretreatment Standards for New Sources

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time it promulgates new source performance standards (NSPS). New indirect discharging mills, like new direct discharging mills, have the opportunity to incorporate the best available demonstrated technologies, including process changes, in-plant controls, and end-of-pipe treatment technologies.

As set forth in section IX.E.5(a) of this preamble, EPA determined that a broad range of pollutants discharged by pulp and paper mills (including dioxins, furans, AOX, BOD and TSS) pass-through POTWs. The same technologies discussed previously for BAT, NSPS, and PSES are available as the basis for PSNS.

EPA is proposing that pretreatment standards for new sources be set equal to NSPS for toxic and nonconventional pollutants for the following subcategories: papergrade kraft and soda, dissolving kraft, papergrade sulfite, dissolving sulfite, unbleached kraft, and semi-chemical. The Agency is proposing to establish PSNS for the same pollutants and the same points of application as are being proposed for NSPS.

EPA considered the cost of the proposed PSNS technology for new mills. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating mills are using these technologies. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected PSNS.

7. Best Management Practices

The Agency is proposing to require mills to follow best management practices (BMPs) to prevent, contain and control spills of pulping liquors. These BMPs would apply to mills in the following effluent guideline subcategories: Dissolving Kraft; Bleached Papergrade Kraft and Soda; Unbleached Kraft; Dissolving Sulfite; Papergrade Sulfite; Semi-Chemical, and Non-Wood Chemical Pulp.

The practices proposed today as BMPs are known to reduce the amount of pulping liquor (e.g., "black liquor," "red liquor") discharged to wastewater treatment systems, and to reduce the cost of process operation through increased chemical recovery. BMPs would include:

- Employee training;
- Engineering analyses of problem areas and appropriate prevention and control strategies;
- Preventative maintenance;
- Engineered controls and containment;
- Work practices;
- Surveillance and repair programs;
- Dedicated monitoring and alarm systems; and
- Record keeping to document implementation of these practices.

BMPs would also include other practices chosen from a "menu" of practices that are applicable to individual mills or groups of mills, such as:

- Secondary containment diking around pulping liquor and storage tanks;
- Covered storage tank capacity for collected spills and planned liquor diversions;
- Automated spill detection systems, such as high level, flow and conductivity monitors and alarms; and
- Backup equipment capacity to handle process upset conditions.

Losses of pulping liquors contribute significant loads of BOD, COD, non-chlorinated organic compounds, and color. Pulping liquors have been identified as a likely source of non-chlorinated organic compounds in effluents that exhibit aquatic toxicity. These liquors may contain specific toxic pollutants among those listed under sections 307(a) and 311(e) of the CWA. Naturally occurring phenolic compounds are known from literature sources to be present in these liquors, including phenol (a 307(a)(1) toxic pollutant). EPA solicits data on the specific compounds present in pulping liquors.

Measures similar to the BMPs proposed today have sometimes been included as special conditions in NPDES permits for pulp and paper mills. The BMPs proposed today are similar to spill prevention, containment and control (SPCC) plans for oil and hazardous materials under Section 311 of the Clean Water Act. In view of the rapidly changing processes and the nature of the toxic and nonconventional pollutants discharged by this industry, EPA is proposing that BMPs be included as special conditions in NPDES permits. The Agency is proposing that mills be required to submit a BMP plan within 120 days of promulgation of this rule to EPA (or the state permit authority) f approval. The Agency also is proposing that each mill be required to implement the BMP plan within 24 months of promulgation of these rules, and to review and update the plan every three years thereafter.

F. Determination of Long-Term Averages, Variability Factors, and Limitations

The effluent limitations in today's notice are based on statistical procedures that estimate long-term averages, variability factors, and effluent limitations and standards. Effluent limitations and standards are provided as daily maximums and monthly averages for continuous direct dischargers and as annual averages or daily maximums for the non-continuous direct dischargers. The following sections describe the statistical methodology used to develop long-term averages, variability factors, and limitations for BPT, BCT, BAT, PSES, and standards for new sources.

1. Long-Term Averages, Variability Factors, and Limitations for BPT

The long-term averages, variability factors, and limitations were based upon biochemical oxygen demand (BOD_5) and total suspended solids (TSS) concentrations, flow rates, and total annual production reported in the 1990 Census.

The EPA used the total annual production for 1989 as a normalizing parameter for the monthly average mass loadings provided by each mill in the 1990 Census. The long-term averages for the BOD_5 and TSS production normalized mass loadings were calculated for each mill by arithmetically averaging its monthly average loadings. For all subcategories except the dissolving sulfite subcategory, the long-term averages that were used in developing the limitations were the averages of the long-term averages from the best 50 percent of the mills in each subcategory. The methodology used to develop the BOD_5 and TSS long-term averages for the dissolving sulfite subcategory is described in the technical water development document.

The daily variability factor is the ratio of the estimated 99th percentile of the distribution of daily values divided by the expected value, or mean, of the distribution of the daily data. The monthly variability factor is the

estimated 95th percentile of the distribution of monthly averages of the data divided by the expected value of the monthly averages. The number of measurements used to calculate the monthly averages corresponds to the number of days that the pollutant is expected to be monitored during the month. BOD_5 and TSS are expected to be monitored daily; therefore, the monthly variability factor was based upon the distribution of 30-day averages.

The daily and monthly variability factors were calculated using daily measurements of BOD_5 and TSS concentrations, daily flow measurements, and total annual production from selected mills in each subcategory with the BPT technology basis. In general, the data were from the best 50 percent of the direct discharge mills in each subcategory as determined by BOD_5 loadings, where those mills had a minimum of 85 percent of their production in one subcategory. Additional selection criteria were that daily data were available, and that all of the current subcategories within the proposed subcategories were represented whenever possible.

The daily BOD_5 and TSS concentrations, the daily flow, and total annual production were used to calculate the daily production normalized mass loadings for BOD_5 and TSS. The statistical analysis of the daily mass loadings indicated that positive autocorrelations exist between values measured on consecutive days for both BOD_5 and TSS. When data are said to be autocorrelated, it means that measurements taken at different time periods are similar. For example, measurements taken on a daily basis of treated final effluent are often correlated from one day to the next. When the data are positively autocorrelated, the average has greater variance than an average of independent measurements. The average of positively autocorrelated measurements is not affected by the autocorrelation; therefore, long-term averages do not require adjustment for any autocorrelation in the data. The autocorrelation was incorporated into the development of the variability factors by using a time series analysis, as described in the statistical support document.

The variability factor for each subcategory was the average of the variability factors for the selected mills in the subcategory. The statistical support document lists these variability factors and provides a detailed description of the methodology used to develop the limitations and variability factors.

The BOD_5 and TSS limitations for each subcategory, as presented in today's notice, were developed using the long-term average and the variability factor for the subcategory. The daily maximum limitation for continuous dischargers for each subcategory is the product of the long-term average and the daily variability factor for that subcategory. The monthly average limitation for continuous dischargers for each subcategory is the product of the long-term average and the monthly variability factor for the subcategory. The annual average limitation for non-continuous dischargers has been set equal to the long-term average.

2. Long-Term Averages, Variability Factors, and Limitations for BAT

The long-term averages, variability factors, and limitations were developed using pollutant concentration data, flow rates, and brownstock pulp production rates.

When concentrations for a pollutant were all reported as being below the sample-specific detection limit in data representing a technology option, EPA set the daily maximum limitation for continuous and non-continuous dischargers to be equal to the minimum level in concentration units for the analytical method that is specified in the proposed regulation ("ND limitation"). For one case where the dataset had only one detected value (all other measurements were below detection), the EPA set the daily maximum limitation to be an ND limitation. This one detected value was reported with a concentration value less than the minimum level for the analytical method for the pollutant. When the daily maximum limitation is an ND limitation (i.e., equal to the lowest measurable value for the pollutant), the monthly average limitation for continuous dischargers and the annual average limitation for non-continuous dischargers are not necessary.

The estimation of the AOX daily maximum limitation for totally chlorine-free processes is described in Section IX.E.3. In all other cases, the limitations were developed as described below and are provided in production normalized mass units in the proposed regulation. The production normalized pollutant mass loadings were calculated using the concentration values, the flow rate at each sampling point, and the brownstock pulp production.

The EPA proposes to regulate some pollutants in the effluent from the bleach plant and some pollutants in the final effluent (as described in section IX.E.3). For the mills representing the recommended options, the acid and alkaline streams were discharged separately from the bleach plant. Limitations were estimated for the acid and alkaline streams separately and then summed to provide one limitation for each pollutant for the bleach plant effluent.

The long-term averages and the variability factors for the pollutants were determined by fitting a modified delta-lognormal distribution to the data from the mills representing the options. The modified delta-lognormal distribution and the reasons for its selection are explained in more detail in the statistical support document.

The long-term average of a pollutant for the data from each mill representing an option was estimated by the mean of the modified delta-lognormal distribution when the data met the criteria of a minimum of four observations with a minimum of two measured ("non-censored") values. When a dataset had less than four observations, the long-term average was the arithmetic average of the pollutant mass loadings. The statistical support document describes the derivation of long-term averages for the remaining cases where the dataset had more than four observations and less than two non-censored values.

The long-term average for a pollutant in an option was based upon a weighted average of the long-term averages from the mills that represented the option. The weighted average was calculated using weights equal to the square root of the sample size of the data from each mill.

As described in section IX.F.1, the daily variability factor is the ratio of the estimated 99th percentile of the distribution of daily values divided by the expected value, or mean, of the distribution. The monthly variability factor is the estimated 95th percentile of the distribution of the monthly averages of the data divided by the expected value of the monthly averages. The number of measurements used to calculate the monthly averages corresponds to the number of days that the pollutant is expected to be monitored during the month. For example, the toxic volatile compounds are expected to be monitored once a week (which is approximately four times a month); therefore, the monthly variability factor was based upon the distribution of four-day averages. Color, COD, and AOX are expected to be monitored daily; therefore, the monthly variability factor was based upon the distribution of 30-day averages. The chlorinated phenolic compounds, TCDD, and TCDF are expected to be

monitored monthly; therefore, only the daily maximum limitation applies for continuous dischargers.

The percentiles used to develop the variability factors for the data from each mill representing an option were based upon the modified delta-lognormal distribution when the data met the criteria of a minimum of four observations with a minimum of two non-censored values. In most cases, this criteria was met by only one mill in each option, and the data from the one mill determined the variability factor for the option. The variability factors are provided in the statistical support document.

The daily maximum limitation for continuous dischargers of a pollutant in each option was estimated by the product of the long-term average and the daily variability factor. The monthly average limitation for continuous dischargers of a pollutant in each option was estimated by the product of the long-term average and the monthly variability factor for those pollutants that are expected to be monitored more than once a month. The daily maximum limitation for non-continuous dischargers applies only when the limitation has been set equal to the minimum level in concentration units for the analytical method. In all other cases, the annual average limitation for non-continuous dischargers applies. The annual average limitation has been set equal to the long-term average.

The EPA believes that there are likely to be positive autocorrelations between values measured on consecutive days for AOX, COD and color. As explained in section IX.F.1, when data are positively autocorrelated, the average has greater variance than an average of independent measurements. Because these measurements are expected to be monitored on a daily basis, the EPA believes that the variability factors should account for the autocorrelation in the data. The EPA has incorporated the autocorrelation into the variability factors for COD. However, the EPA did not have enough AOX and color data to estimate the autocorrelation in daily measurements of AOX and color for the proposal. Section XIII, Solicitation of Comments, requests daily measurements for AOX, COD, and color. These data will be used to evaluate the autocorrelation.

3. Long-Term Averages, Variability Factors, and Standards for New Sources

For all subcategories except the dissolving sulfite subcategory, performance standards for new sources for BOD_5 and TSS are based on the data from the best mill in each subcategory. In general, the best mill was selected by considering the BOD_5 treatment performance. The methodology used to develop the BOD_5 and TSS long-term averages for the dissolving sulfite subcategory is described in the technical water development document. For all other subcategories, the long-term averages were estimated using the average of the monthly average loadings reported in the 1990 Census by the best mill in the subcategory. The variability factors were developed using the daily concentration and flow data from the best mill when these data were provided to the EPA. The estimation of these variability factors used the same methodology as described in section IX.F.1 for BPT limitations. When the best mill had not provided daily data, the EPA used the variability factors developed for the BPT limitations to estimate the performance standards for new sources. The daily maximum and monthly average standard for continuous direct dischargers in each subcategory was the product of the long-term average and the appropriate daily or monthly variability factor. The annual average limitation for non-continuous dischargers was set equal to the long-term average.

Performance standards for new sources for toxic and nonconventional pollutants for the bleached papergrade kraft and soda subcategory were estimated using the same methodology described in section IX.F.2 for BAT limitations.

G. Costs

The Agency estimated the cost for the pulp, paper, and paperboard industry to achieve each of the effluent regulations proposed today. These estimated costs are summarized in this section and discussed in more detail in the technical water development document. All cost estimates in this section are expressed in 1991 dollars. The cost components reported in this section are engineering estimates of the investment cost of purchasing and installing equipment and the annual operating and maintenance costs associated with that equipment. In sections IX.E and XI.B, a different cost component, total annualized cost, is reported. The total annualized cost, which is used to estimate economic impacts, better describes the actual compliance cost that a company will incur, allowing for interest, depreciation, and taxes. A summary of the economic impact analysis for the proposed regulation is contained in Section XI.B of today's notice. See also the economic impact analysis.

1. BPT Costs

The Agency estimated the costs of implementing BPT with a mill-specific engineering cost assessment. If a mill's 1989 discharges of both BOD_5 and TSS, as reported in the questionnaire, were less than the long-term average loads achievable by the technology basis for today's proposed BPT, the mill was estimated to have no compliance costs. If a mill's BOD_5 or TSS load exceeded the BPT long-term average load, load reductions that would result from the implementation of BAT, MACT standards, and BMP were subtracted from the current discharge load. If the resulting BOD_5 or TSS load still exceeded the BPT long-term average load, costs for in-plant flow reduction and/or treatment system upgrades were estimated. The capital expenditures for BPT are estimated to be $337 million, with annual operating and maintenance (O&M) costs of $29 million. The estimated cost for implementing BPT is summarized, by subcategory, in Table IX.G.1–1.

2. BAT and BMP Costs

The Agency estimated the costs of implementing BAT, which has two cost components—process changes and COD control—and the additional cost for best management practices (BMP). The engineering cost assessment for BAT process changes began with a mill-specific review of pulping and bleaching technologies. If, as of January 1, 1993, the Agency determined that a mill was using the technology basis for today's proposed BAT, the Agency assumed the mill would incur no costs to achieve BAT. If a mill did not have BAT operations in place, costs to modify the mill's operations to achieve BAT were estimated. The Agency believes that this approach overestimates the costs to achieve BAT because many mills can achieve BAT level discharges without using all of the components of the technology basis described in section IX.E. The Agency solicits comment on these costing assumptions. The capital expenditures for the process change component of BAT are estimated to be $2.16 billion with annual O&M costs of $18 million.

TABLE IX.G.1-1.—COST OF IMPLEMENTING BPT[1] REGULATIONS

[In millions of 1991 dollars]

Subcategory[2]	Number of mills[3]	Capital costs	Annual O&M costs
Dissolving Kraft	3	3.2	0.08
Bleached Papergrade Kraft and Soda	78	120	10
Unbleached Kraft	53	35	3.7
Dissolving Sulfite	5	22	2.7
Papergrade Sulfite	11	19	0.7
Semi-Chemical	20	5.9	0.6
Mechanical Pulp	41	20	1.8
Nonwood Chemical Pulp	7	3.5	0.04
Secondary Fiber Deink	24	26	1.4
Secondary Fiber Non-deink	158	27	2.5
Fine and Lightweight Papers from Purchased Pulp	85	24	2.1
Tissue, Filter, Non-woven, and Paperboard from Purchased Pulp	112	32	2.8
Industry Total	325	337	29

[1] Flow reduction and end-of-pipe treatment system costs.
[2] Costs for mills with operations in more than one subcategory have been apportioned based on annual production (OMT).
[3] Number of mills with any production to which BPT would apply.

The costs of most of the technologies that form the basis for COD control were estimated as part of BAT, BPT, or BMPs. The Agency estimated the costs of COD control for the technologies that were not already included in previous cost estimates: screen room closure for mills in the dissolving kraft, bleached papergrade kraft and soda, unbleached kraft, and papergrade sulfite subcategories, and good brownstock washing for mills in the semi-chemical subcategory. The Agency determined the status of screen rooms at mills from the questionnaire. If a mill already had a closed screen room, the Agency assumed the mill would incur no costs for COD control above the costs for BAT, BPT, and BMP. If a mill had an open screen room, the capital costs to close the screen room were estimated. The Agency assumed that the net annual O&M costs for screen room closure were zero, because the new equipment would replace existing equipment and would require equal or lower O&M expenses. For semi-chemical mills, the Agency determined which mills had inadequate brownstock washing from information in the questionnaire, and the capital and O&M costs of a brownstock washing upgrade were estimated for those mills. The capital expenditures for the COD controls are estimated to be $237 million with annual O&M costs of $1.2 million.

The Agency estimated the cost of implementing BMP based on a mill-specific assessment of the current status of management practices. For the kraft segment of the industry, the Agency estimated that one-third of the mills have systems equivalent to the proposed BMPs in place; one-third require moderate upgrades; and one-third require major upgrades. Based upon examples of recent installations of pulping liquor spill prevention and control systems, the Agency estimated that kraft mills that require major upgrades would incur an average capital expenditure of $1.5 million, with annual O&M savings of $500,000, while kraft mills that require moderate upgrades would incur an average capital expenditure of $750,000, with annual O&M savings of $250,000. Mills with complete implementation of BMPs were assumed to have no additional capital costs; annual O&M savings were also assumed to be zero. The cost savings are expected due to savings in chemicals, energy, and wastewater treatment. A similar approach was used to estimate the cost of implementing BMP at other subcategories, except that annual O&M was not estimated to result in a net cost savings. The capital expenditures for BMP are estimated to be $76 million, with annual O&M savings of $19 million.

Table IX.G.2-1 summarizes, by subcategory, the capital expenditures and annual O&M costs for implementing BAT process changes, COD controls, and BMP.

TABLE IX.G.2-1.—COST OF IMPLEMENTING BAT[1] AND BMPS FOR DIRECT DISCHARGERS

[In millions of 1991 dollars]

Subcategory[2]	Number of mills[3]	Capital costs	Annual O&M costs (savings)
Dissolving Kraft	3	139	(10)
Bleached Papergrade Kraft and Soda	78	1,948	12
Unbleached Kraft	56	125	(8.0)
Dissolving Sulfite	5	110	(13)
Papergrade Sulfite	10	104	17
Semi-Chemical	20	42	2.1
Nonwood Chemical Pulp	7	1.8	0
Industry Total	178	2,473	(0.2)

[1] Process change and COD control costs.
[2] Costs for mills with operations in more than one subcategory have been apportioned based on annual production.
[3] Number of mills with any production to which BAT or BMPs would apply.

3. PSES Costs

The Agency considered three factors in estimating costs for PSES: process changes, COD control, and BMP. The Agency estimated the cost for implementing PSES with the same assumptions and methodology used to estimate BAT process changes, COD control, and BMP costs for direct dischargers. The capital expenditures for the process change component of PSES are estimated to be $235 million with annual O&M costs of $2.2 million. The capital expenditures for the COD controls are estimated to be $29.4 million with annual O&M costs of $50,000. The capital expenditures for BMP for indirect dischargers are estimated to be $11 million, with annual O&M savings of $2.7 million.

These costs were estimated for the 18 mills that would be regulated by PSES and BMPs for indirect dischargers. These costs are not reported by subcategory because the level of data aggregation is insufficient to protect confidential business information.

As discussed in section IX.E., the Agency is proposing end-of-pipe PSES equivalent to end-of-pipe BAT for several pollutants. The technology basis for end-of-pipe PSES for these pollutants is secondary wastewater treatment. These costs were estimated using the same methodology used to estimate BPT costs.

Section IX.E explains why the Agency believes this is not a likely treatment decision for an indirect discharger but for purposes of achievability analysis, the Agency includes these secondary treatment costs. The capital expenditures for all indirect dischargers to achieve end-of-pipe PSES are estimated to be $66 million with annual O&M costs of $5.7 million. The total capital expenditures for all components (process changes, COD controls, BMP, and end-of-pipe treatment) of PSES are estimated to be $342 million with annual O&M costs of $5.2 million.

As discussed in section IX.E., the Agency is soliciting comment on an alternative approach to establishing end-of-pipe PSES on-site at the facility. Under this alternative approach, certain mills would not be subject to the PSES limits if the POTWs into which they are discharging voluntarily accept certain limits in their NPDES permits. The Agency estimated the cost for these POTWs to achieve limits comparable to these PSES limits, based on the costs the Agency estimated for similarly-sized mill treatment systems to be upgraded to today's proposed BPT. The capital expenditures for industrial POTWs to achieve limits comparable to these PSES limits is estimated to be $6.1 million with annual O&M costs of $0.6 million.

H. Pollutant Reductions

The Agency estimated the reduction in the mass of pollutants that would be discharged from pulp and paper mills after the implementation of the regulations being proposed today. The reduction in pollutant mass is attributable both to process changes and improved end-of-pipe treatment. Process changes that form the technology basis of BAT and PSES reduce the formation of certain pollutants; that is, these process changes prevent pollution. Other process changes, including wastewater recycle practices that are part of the BPT technology basis and BMP, reduce pollutant discharges by diverting certain waste streams from wastewater treatment. The pollutants contained in these diverted waste streams may be captured in the product, recovered for reuse, routed to on-site combustion where they are destroyed while their heating value is recovered, or eventually discharged to wastewater treatment in other wastewater streams. When wastewater discharge volumes are reduced by recycle and reuse, pollutants are typically concentrated in the remaining waste streams. This is advantageous, from a treatment standpoint, because more concentrated pollutants can be removed more efficiently in wastewater treatment.

Additional information on the methodology used to estimate the pollutant reductions resulting from the implementation of effluent limitations is included in Section 9 of the technical water development document and in the public record for this proposal.

1. Conventional Pollutant Reductions

For each subcategory, the Agency developed an estimate of the long-term average production normalized mass loading (LTA) of BOD_5 and TSS that would be discharged after the implementation of BAT, BMP, MACT, and BPT. The reduction in the mass of BOD_5 and TSS achieved was estimated on a mill-specific basis. The BPT LTA was multiplied by each mill's 1989 production for all subcategories present at the mill. The total mill BPT mass was subtracted from the 1989 discharge of BOD_5 and TSS (as reported in the questionnaire), to estimate the mill's pollutant reduction. To calculate a total subcategory pollutant reduction, the pollutant reduction achieved by each multi-subcategory mill was apportioned to each subcategory present at the mill on the basis of production. The Agency estimates that the proposed regulations will reduce BOD_5 discharges by approximately 94,500 metric tons per year. Of the total BOD_5 pollutant reduction, approximately 12,300 metric tons per year (13 percent) results from implementation of BAT; approximately 12,500 metric tons per year (13 percent) results from implementation of NESHAP; approximately 5,090 metric tons per year (5 percent) results from implementation of BMP; and approximately 64,700 metric tons per

year (69 percent) results from implementation of BPT. TSS discharges will be reduced by approximately 128,000 metric tons per year. All TSS pollutant reductions result from implementation of BPT. Table IX.H.1–1 is a summary of the estimated conventional pollutant reductions that will result from implementation of BAT, BMP, NESHAP, and BPT.

2. Toxic and Nonconventional Pollutant Reductions

a. Methodology. The proposed BAT and PSES limitations will control the discharge of toxic and nonconventional pollutants. These limitations and standards will be applied at two control points: The combined discharge from the bleach plant and the treated final effluent discharge. The Agency developed an estimate of the long-term average production normalized mass loading (LTA) of several pollutants that would be discharged from each of these control points after the implementation of BAT and PSES. These pollutants consisted of three groups of chlorinated compounds (chlorinated phenolic compounds, chlorinated dioxins and furans, and the chlorinated volatile organic compounds chloroform and methylene chloride), two nonchlorinated volatile compounds (acetone and methyl ethyl ketone), and two aggregate pollutant parameters (AOX and COD). The specific pollutant compounds are listed in section IX.C.

Using a methodology similar to that used to estimate BPT pollutant reductions, the BAT pollutant reductions were estimated on a mill-specific basis. The BAT or PSES LTA, multiplied by each mill's 1989 production or more recent production, if available, was subtracted from an estimate of the mill's baseline pollutant loading. Baseline pollutant loadings were estimated for both the bleach plant effluent and final effluent control points using data collected by the Agency in the short- and long-term sampling programs and data supplied by the industry. Only data believed to be representative of the mill's operations as of January 1, 1993 were used. For many mills, data were not available for all pollutants of concern. For those mills, baseline discharge loads were estimated from mills with similar pulping and bleaching operations. Very few data were available to represent baseline bleach plant discharge loads of chlorinated phenolic compounds. For these pollutants, the Agency has not estimated bleach plant pollutant reductions achievable by BAT or PSES. Also, standardized data were not available to represent baseline color loadings, and the Agency has not estimated the reduction in color discharges that would result from BAT or PSES.

TABLE IX.H.1–1.—REDUCTION IN ANNUAL DIRECT DISCHARGE OF CONVENTIONAL POLLUTANTS AFTER IMPLEMENTATION OF BAT, BMP, NESHAP, AND BPT REGULATIONS

[In metric tons per year]

Subcategory [1]	BOD_5	TSS
Dissolving Kraft	2,240	3,640
Bleached Papergrade Kraft and Soda	43,700	56,500
Unbleached Kraft	12,300	13,600
Dissolving Sulfite	12,900	23,000
Papergrade Sulfite	5,540	7,210
Semi-Chemical	2,330	2,700
Mechanical Pulp	3,750	6,860
Nonwood Chemical Pulp	217	208
Secondary Fiber Deink	2,240	3,570
Secondary Fiber Non-deink	3,310	4,590
Fine and Lightweight Papers from Purchased Pulp	2,770	3,880
Tissue, Filter, Nonwoven, and Paperboard from Purchased Pulp	3,300	2,400
Industry Total	94,500	128,000

[1] Reductions for mills with operations in more than one subcategory have been apportioned based on annual production (OMT) in the subcategories to which each regulation applies.

b. Bleach Plant Discharge. All reductions in bleach plant pollutant loadings result from the process changes that are the technology bases for both BAT and PSES. As noted above, the process changes reduce the generation of pollutants of concern. Export vectors for pollutants generated in the bleach plant are the pulp itself, air emissions and wastewater streams discharged to treatment. In the treatment system, some pollutants are biodegraded, while others (particularly TCDD and TCDF) partition between the treated wastewater and biological sludges. The Agency estimated the reduction in the annual bleach plant discharge of regulated pollutants to account for the reduction in pollutants generated (other than those that may be exported in pulp). For the Bleached Papergrade Kraft and Soda Subcategory, bleach plant discharge of TCDD and TCDF was estimated to be reduced by 517 g/yr, and the discharge of AOX was estimated to be reduced by 43,800 kkg/yr. Reduced generation of volatile compounds will lower both bleach plant discharges and air emissions. For example, for the bleached papergrade kraft and soda subcategory, the bleach plant effluent discharges of chloroform, methylene chloride, acetone, and methyl ethyl ketone decrease by 2,160 kkg/yr. The Agency does not have sufficient bleach plant baseline data to accurately quantitate the reductions in the other three subcategories but has determined that the reductions will follow similar trends. The reductions discussed in c and d, below, and shown in Table IX.H.2–1 only account for the reductions in the pollutant loads discharged in treated wastewater, only a portion of the total reduction in pollutants generated.

c. Direct Mill Discharges (BAT). The Agency estimates that proposed BAT regulations will reduce direct mill discharge of the combined mass of two dioxin compounds, TCDD plus TCDF, by 354 grams per year. Discharge of AOX is estimated to be reduced by 40,800 metric tons per year. The estimated reductions in pollutants directly discharged in treated final effluent resulting from implementation of BAT are listed in Table IX.H.2–1.

TABLE IX.H.2–1.—REDUCTION IN MILL DIRECT DISCHARGE OF PRIORITY AND NONCONVENTIONAL POLLUTANTS AFTER IMPLEMENTATION OF BAT REGULATIONS

Subcategory [1] (Units)	TCDD and TCDF (g/yr)	Volatile compounds [2] (kkg/yr)	Chlorinated phenolic compounds [3] (kkg/yr)	AOX (kkg/yr)	COD (kkg/yr)
Dissolving Kraft	26.3	12.6	3.52	1,670	8,560
Bleached Papergrade Kraft and Soda	317	1,060	1,470	32,900	1,110,000
Unbleached Kraft	0	0	0	0	326,000
Dissolving Sulfite	2.41	53.8	2.41	1,010	0
Papergrade Sulfite	8.16	21.7	18.7	5,250	200,000
Semi-Chemical	0	0	0	0	60,700
Total Industry	354	1,150	1,490	40,800	1,700,000

[1] Reductions for mills with operations in more than one subcategory have been apportioned based on annual production (ADMT brownstock pulp).
[2] Total mass of chloroform, methylene chloride, acetone, and MEK.
[3] Total mass of compounds listed in IX.C.

d. POTW Effluent Discharge (PSES). In section IX.E., the Agency identifies and solicits comment on an alternative procedure for establishing PSES. The alternative suggests that PSES be transferred to POTWs at which 50 percent or more of the total flow or BOD_5 load or TSS load is derived from sources in the pulp, paper, and paperboard category. The Agency estimated the reduction in pollutants discharged from such POTWs resulting from the potential transfer of PSES, as follows. The Agency first estimated the mass of each pollutant of concern that is currently discharged from the industry source to the POTW. For conventional pollutants, the 1989 mass discharges reported to the Agency in the questionnaire were used. For toxic and nonconventional pollutants, each mill's baseline discharges were estimated by the methodology described above. Final effluent loadings for the upgraded POTWs were estimated assuming the performance of the POTW secondary treatment systems was equivalent to those at direct-discharging pulp mills meeting the proposed BPT level of control. The result was an estimate of the current POTW discharge of the pollutants of concern. Next, the Agency estimated the POTW discharge of pollutants of concern after transfer of PSES limitations. The Agency estimates that discharges of AOX from POTWs will be reduced by 4,250 metric tons per year. The combined mass of two dioxin compounds, TCDD and TCDF, discharged from POTWs will be reduced by 49 grams per year. Discharge of chlorinated phenolic compounds will be reduced by 26 metric tons per year. Discharge of volatile compounds will be reduced by 132 metric tons per year. Discharge of COD will be reduced by 106 metric tons per year. Discharge of BOD_5 and TSS will be reduced by 3,320 and 1,190 metric tons per year, respectively.

I. Regulatory Implementation

1. Applicability

The regulations proposed today are just that—proposed regulations. As such, though they represent EPA's best judgment at this time, they are not intended to be relied upon by permit writers in establishing effluent limitations. The technology basis described in today's notice and the proposed effluent limitations included in today's action are provided for public comment.

2. Upset and Bypass Provisions

A "bypass" is an intentional diversion of waste streams from any portion of a treatment facility. An "upset" is an exceptional incident in which there is unintentional noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets are set forth at 40 CFR 122.41.

3. Variances and Modifications

a. Introduction. In addition to specifying national goals for water pollution control, the CWA provides a mechanism for modifying some requirements of the CWA in exceptional cases. These modifications are called variances. Very specific data requirements must be met by an applicant before a variance may be granted.

b. Fundamentally Different Factors Variances. EPA regulations at 40 CFR Part 125 Subpart D contain provisions authorizing EPA Regional Administrators to establish alternative limitations more or less stringent than those contained in the national effluent limitations guidelines. The EPA applies these regulations to BPT variance requests. These alternative limitations are permissible when there are factors present at a specific plant that are fundamentally different from the factors the EPA considered during development of the limitations. The regulations detail the substantive factors used to evaluate fundamentally different factors (FDF) variance requests for direct dischargers. 40 CFR 125.31(d) establishes six factors that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by the EPA in developing the nationally applicable effluent guidelines. In addition to the six factors that may be considered in granting variances, 40 CFR 125.31(e) lists four factors that may not be the basis for an FDF variance. If the EPA finds that fundamentally different factors exist, and that compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits, and that all other applicable provisions of the regulations are satisfied, then EPA may establish alternative effluent limitations that are imposed in the applicant's NPDES permit.

Other provisions relating to application deadlines and procedures for processing variances for direct dischargers are contained in the NPDES regulations in 40 CFR Parts 122 and 124.

Section 306 of the Water Quality Act of 1987 amended Sec. 301 of the CWA by adding a new subsection (n) for FDF variances. Section 306 provides a statutory basis for FDF variances from BAT, BCT, and PSES. The provisions of Section 301(n) include four criteria for approval of BAT, BCT, and PSES FDF variances. In addition to the provisions of 301(n), the EPA regulations at 40 CFR Part 403.13 provide that an FDF variance may be granted when there are factors present at a specific Industrial User (IU) that are fundamentally different from the factors the EPA considered during the development of the Standards. These regulations detail the substantive factors used to evaluate FDF variance requests for indirect dischargers.

40 CFR 403.13(d) establishes six factors which are used to determine if an IU is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by EPA in developing the applicable Pretreatment Standards. In addition to the six factors that may be considered in granting variances, 40 CFR § 403.13(e) lists four factors that may not be the basis for an FDF variance. Other provisions relating to application deadlines and procedures for processing variances are also contained in the regulations in 40 CFR part 403.

The legislative history of Section 301(n) states that the FDF variance applicant has the burden of proving eligibility for an FDF variance. Similarly, 40 CFR § 125.32(b)(1) specifically imposes the burden upon the applicant to show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different, are, in fact, fundamentally different from those factors considered by the EPA in establishing the applicable guidelines. Similarly, 40 CFR § 403.13(h)(9) specifically imposes upon the applicant the burden of demonstrating that the factors relating to the IU's pollutant limitations in the Pretreatment Standard which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by EPA in establishing the applicable Standard.

c. Economic Variances. Section 301(c) of the CWA provides for a variance for nonconventional pollutants for BAT effluent guidelines due to economic factors. The request for the variance from effluent limitations developed from BAT guidelines is normally filed by the discharger during the public notice period for the draft permit. Other filing time periods may apply, as specified in 40 CFR 122.21(l)(2). Specific guidance for this type of variance is available from EPA's Office of Wastewater Enforcement and Compliance.

d. Water Quality Variances. Section 301(g) of the CWA provides for a variance for certain nonconventional pollutants from BAT effluent guidelines due to localized environmental factors. These pollutants include ammonia, chlorine, color, iron, and total phenols.

e. Permit Modifications. After the final permit is issued, the permit may still need to be modified. In a permit modification, only the conditions subject to change are reconsidered while all other permit conditions remain in effect. A permit modification may be triggered in several ways, such as when the regulatory agency inspects the facility and finds a need for the modification, or when information submitted by the permittee suggests a need for a modification. Any interested person may request that a permit modification be made. There are two classifications of modifications: major and minor. From a procedural standpoint, they differ primarily with respect to the public notice requirements. Major modifications require public notice while minor modifications do not. Virtually all modifications that result in less stringent conditions are treated as a major modification, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described in 40 CFR 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described in 40 CFR 122.63.

4. Relationship of Effluent Limitations to NPDES Permits and Monitoring Requirements

Effluent limitations act as a primary mechanism to control the discharges of pollutants to waters of the United States. These limitations are applied to individual mills through NPDES permits issued by the EPA or authorized States under section 402 of the Act.

The Agency has developed the limitations and standards for this proposed rule to cover the discharge of pollutants for this industrial category. In specific cases, the NPDES permitting authority may elect to establish technology-based permit limits for pollutants not covered by this proposed regulation. In addition, if State water quality standards or other provisions of State or Federal Law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations.

For determination of effluent limits where there are multiple products or multiple categories and subcategories, the effluent guidelines are applied using a production-weighted combination of the appropriate guideline for each category or subcategory. Where a facility has added a new bleach line in conjunction with existing bleach lines, the effluent guidelines would also be applied by using a production-weighted combination of the NSPS limit for the new line and the BAT and BCT standards to the existing lines to derive the limitations. However, as stated above, if State water quality standards or other provisions of State or Federal Law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations regardless of the limitation derived using the production-weighted combinations.

For non-continuous discharging plants, EPA is today proposing that NPDES permit authorities and pretreatment authorities apply the mass-based annual average end-of-pipe effluent limitations or standards. A non-continuous discharger is a mill that does not discharge wastewater during specific periods of time for reasons other than treatment plant upset, such periods being at least 24 hours in duration. An example of a non-continuous discharger is a plant where wastewaters are routinely stored for periods in excess of 24 hours to be treated on a batch basis.

EPA has learned of specific situations during scheduled maintenance shutdowns or during activities associated with the closure of a mill, when mills may sewer a variety of materials as a means of disposal. Some mills have recently acknowledged that they regularly sewer white, green, and black liquors, sodium hydroxide, acids, bleaching solutions, other feedstock chemicals, sludges, and dregs.

The effluent guidelines for the pulp and paper industry that are being proposed today are for the discharge of process wastewaters directly associated with the day-to-day manufacturing of pulp or paper. The Agency recognizes that scheduled maintenance and shutdowns are necessary for the safe and efficient operation of a mill. However, the Agency does not consider the discharges described above to be of process wastewaters. Any pulp or paper mill wishing NPDES authorization to discharge any non-process wastestream such as those referred to above must

specifically disclose this in its permit application. If the permitting authority wishes to authorize this discharge, the permit must specifically authorize the discharge of the specified non-process wastestream. The effluent limitations in the permit must also reflect a separate analysis, done by the permitting authority on a best professional judgment basis, of the levels of pollutants in such non-process wastestreams that are commensurate with the application of BPT, BCT, and BAT. Caution should be exercised in permitting such discharges. Facility treatment systems may not be designed to accommodate these types of materials and their discharge could adversely impact the treatment system and receiving waters.

Working in conjunction with the effluent limitations are the monitoring conditions set out in a NPDES permit. An integral part of the monitoring conditions are the monitoring points. The point at which a sample is collected can have a dramatic effect on the monitoring results for that facility. Therefore, it may be necessary to require internal monitoring points in order to assure compliance. Authority to address internal waste streams is provided in 40 CFR 122.44(i)(1)(iii) and 122.45(h). Today's proposed integrated rule establishes several internal monitoring points to ensure compliance with both the MACT standards and the effluent guideline limitations. Permit writers may establish additional internal monitoring points to the extent consistent with EPA's regulations.

5. Best Management Practices

In addition to pollutant-specific effluent limitations guidelines and standards, the EPA is proposing best management practices (BMP) pursuant to Section 304(e) of the Clean Water Act. BMPs are different from effluent limits principally because BMPs are specific requirements for conduct, not performance standards. When the EPA sets effluent limits, those limits may be achieved by any technology a discharger may choose. However, when the EPA establishes BMPs under Section 304(e) of the CWA, and those BMPs are incorporated into a discharger's permit, the discharger must perform those specific BMPs. The fact that a discharger met all its effluent limits would not be a defense, if the discharger were charged with a permit violation for failing to perform its BMPs.

The proposed BMPs are applicable to all chemical pulp mills in the following subcategories: dissolving kraft (Subpart A), bleached papergrade kraft and soda (Subpart B), unbleached kraft (Subpart C), dissolving sulfite (Subpart D), papergrade sulfite (Subpart E), semi-chemical (Subpart F), and nonwood chemical pulp mills (Subpart G). The principal focus of the BMPs are prevention and control of losses of pulping liquors from spills, equipment leaks, and intentional liquor diversions from the pulping and chemical recovery processes. More information related to the BMPs is outlined in Section IX.E.7 and in the technical water development document.

The EPA believes these BMPs are important because: (1) Losses of pulping liquor are not recognized process wastewaters and contribute significant portions of untreated wastewater loadings and discharge loadings of color, oxygen demanding substances, and non-chlorinated toxic compounds from chemical pulp mills; (2) pulping liquor spills and intentional liquor diversions are a principal cause of upsets and loss of efficiency of biological wastewater treatment systems that are nearly universally used for treatment of chemical pulp mill wastewaters; (3) prevention and control of pulping liquor losses is a form of pollution prevention that will result in less demand for pulping liquor make-up chemicals; energy efficiency through recovery of liquor solids; more effective and less costly wastewater treatment system operations; and reduced formation of wastewater treatment sludges; and (4) control of pulping liquor losses will result in reduced atmospheric emissions of total reduced sulfur (TRS) from kraft mills and hazardous air pollutants (HAPs) from all chemical pulp mills.

6. Analytical Methods

Sec. 304(h) of the Clean Water Act (CWA) directs the EPA to promulgate guidelines establishing test procedures (methods) for the analysis of pollutants. These methods are used to determine the presence and concentration of pollutants in wastewater, and for compliance monitoring. They are also used for filing applications for the National Pollutant Discharge Elimination System (NPDES) program under 40 CFR 122.41(j)(4) and 122.21(g)(7), and under 40 CFR 403.7(d) for the pretreatment program.

The EPA has promulgated analytical methods for monitoring discharges to surface water at 40 CFR part 136, and has promulgated methods for parameters specific to a given industrial category and for other purposes at parts 400–480 of 40 CFR. In today's proposed rule, EPA is providing notice of methods that have not been promulgated at 40 CFR part 136. Those methods are presented in "Analytical Methods for the Determination of Pollutants in Pulp and Paper Industry Wastewater," a compendium of analytical methods. These methods would be promulgated at 40 CFR part 430 to support regulation of discharges in the pulp, paper, and paperboard industrial category.

Method 1613 is applicable to the determination of tetra through octa chlorinated dioxins and furans in water, soil, sludge and other matrices. It employs high resolution capillary column gas chromatography (HRGC) combined with high resolution mass spectrometry (HRMS) to separate and quantify dioxins and furans. Detected dioxins and furans are quantified by the isotope dilution technique. Although Method 613 has been promulgated at 40 CFR part 136 for the analysis of 2,3,7,8-tetrachlorodibenzo-p-dioxin, Method 1613 is the basis for measurement for the proposed effluent guidelines. Method 1613 has the advantage of much lower detection limits than Method 613. Further, Method 1613 provides the ability to determine all 2,3,7,8-substituted chlorinated dioxins and furans, while Method 613 is specific to the determination of 2,3,7,8–TCDD.

Aqueous samples are prepared by passage through a 0.45 micron filter that is extracted with toluene in a Soxhlet/Dean-Stark (SDS) extractor. The filtrate is extracted with methylene chloride in a separatory funnel. Extracts from the SDS extractor and separatory funnel are combined and concentrated. Extracts are then subjected to a variety of cleanup procedures to remove interfering contaminants prior to injection of the sample extract into the HRGC/HRMS.

Method 1650 is applicable to the determination of adsorbable organic halides in water and wastewater. Results are reported as organic chloride. The concentration of organic halides is determined by adsorption onto granular activated carbon, removal of inorganic halides by washing, and combustion of the organic halides to form hydrogen halide. Subsequent titration with a micro-coulometer quantifies the organic halides, which are not speciated by this procedure.

Method 1624 is applicable to the determination of volatile pollutants in water and wastewater for the proposed effluent guidelines. It employs gas chromatography coupled to a mass spectrometer (GC/MS) to separate and quantify volatile pollutants. Detected pollutants are quantified by isotope dilution. Samples of water or solids suspended in water are purged of volatile organic compounds by a stream of inert gas into the gaseous phase

where they are concentrated onto a trap. Subsequent heating of the trap introduces the concentrated volatile organics into a GC/MS for separation and quantification. The sensitivity of this method is sufficient to detect and quantify volatile organics at parts per billion (ppb) levels in environmental samples. This method is the only method promulgated in 40 CFR part 136 that provides analysis for all four of the regulated volatile pollutants.

Method 1653 is designed to determine chlorinated phenolics (chlorinated phenols, guaiacols, catechols, vanillins, syringaldehydes) and other compounds that are amenable to *in-situ* acetylation, extraction, and analysis by high resolution GC combined with low resolution mass spectrometry (HRGC/LRMS). This method is applicable to water and wastewater samples. Although methods other than method 1653 have been promulgated at 40 CFR part 136 for some of the regulated analytes (e.g., pentachlorophenol), only method 1653 may be used for monitoring because of the sensitivity of this method. Chlorophenolics are converted *in-situ* to acetate derivatives which are extracted with hexane, concentrated, and injected into the HRGC/LRMS where separation and detection occur. Detected chlorophenols are quantified by isotope dilution if a labeled analog is available. Where labeled analogs are not available, detected chlorophenols are quantified by the internal standard technique.

Methods 410.1 and 410.2 are two of several methods allowed for determination of chemical oxygen demand (COD) in water and wastewater. Other methods allowed for the determination of COD in this industry are those in 40 CFR part 136 that use analytical technologies equivalent to the technologies used in EPA methods 410.1 and 410.2, specifically oxidation by potassium dichromate and titration with ferrous ammonium sulfate, as described below. Other methods for COD that are intended for brines (e.g., EPA method 410.3) that are interfered with by color (e.g., EPA method 410.4) and the methods in 40 CFR part 136 equivalent to these methods are specifically not allowed for monitoring pulp and paper wastewaters. Method 410.2 is specific for levels of COD less than 50 mg/L, and Method 410.1 for levels greater than 50 mg/L.

NCASI Method 253 is applicable to the measurement of water and wastewater color. It is designed specifically for measurement of color in pulping and bleaching effluents. Color is determined by spectrophotometric comparison of the sample with known concentrations of colored solutions after the sample is first filtered and pH adjusted to 7.6. EPA has supplemented NCASI method 253 with quality control procedures and specifications similar to those in other highly developed wastewater methods, and requires the use of these procedures and the meeting of the added specifications in monitoring color in wastewaters in this industry.

X. Development of Air Emission Standards

A. Selection of Source Category and Pollutants for Control

1. Source Category Covered by Standard

Section 112 of the Clean Air Act (CAA) requires that national emission standards for hazardous air pollutants (NESHAP) be promulgated for categories of major sources of hazardous air pollutants (HAPs). Major sources are defined as those that emit or have the potential to emit at least 10 tons per year of any single HAP or 25 tons per year of any combination of HAPs.

On July 16, 1992, EPA promulgated the initial list of categories of stationary sources that emit one or more of the 189 HAPs (57 FR 31576). The category of pulp and paper production was included in that list of categories of major sources of HAP emissions. The pulp and paper source category was described to include integrated mills, non-integrated mills, and secondary fiber mills. As indicated in the July 1992 **Federal Register** notice, the final description of each source category is developed as part of the regulatory development process for establishing the NESHAP.

The draft schedule (57 FR 44147, September 24, 1992) for the development of NESHAP published under the authority of Section 112(e) would require promulgation of standards for the pulp and paper source category no later than November 15, 1997. EPA expects to promulgate this NESHAP in 1995, consistent with the requirement of CAA § 112(e)(1) that the Agency "promulgate regulations . . . as expeditiously as practicable."

The standards proposed today would regulate HAP emissions from mills that chemically pulp wood fiber using kraft, sulfite, soda, and semi-chemical methods. Approximately 161 mills would be affected by today's proposed NESHAP. Today's standards are limited to the non-combustion emission points in the pulping and bleaching processes and in the process wastewater collection and treatment systems associated with these processes. Specific emission points are discussed in Section X.B. Based upon available information, EPA believes all sources that chemically pulp wood fiber within the category of pulp and paper production are major sources and, therefore, would be subject to the standards.

The standards proposed today do not include HAP emission points within all areas of the source category. For example, HAP emissions from combustion sources, from wood yards, and from papermaking areas of mills are not addressed in today's proposal. The standards do address those areas of the source category that offer the best opportunity for integration with the effluent guidelines also being proposed today.

Adequate data were not available to evaluate potential controls for emission points within the pulp and paper source category not addressed in today's proposal. Standards for the remaining portion of the source category will be proposed separately. EPA plans to propose standards for the combustion emission points at chemical pulping processes approximately one year after today's proposal and promulgate these standards together with the standards for the noncombustion points.

2. Subcategorization

A subcategory is a distinct group of sources within a source category. Section 112 of the CAA provides for, but does not require, the development of standards for distinct subcategories within the source category. EPA has the discretion to determine whether to subcategorize. For today's proposed NESHAP, EPA is not proposing to subcategorize the pulp and paper production source category. The reasons for not subcategorizing are discussed in section X.D.2.

3. Pollutants Covered

Section 112(b) of the CAA lists 189 chemicals, compounds, or groups of chemicals identified as HAPs, and provides EPA with authority to modify that list. Emissions from pulping, bleaching, and wastewater processes typically include a mixture of HAPs. The major HAPs (in terms of mass) emitted from these processes that would be controlled by the standards proposed today include methanol, hexane, toluene, methyl ethyl ketone, chloroform, chlorine, formaldehyde, acrolein, and acetaldehyde. Emission estimates for these and other individual HAPs, as well as additional pollutants that are not HAPs, are presented in the background information document (BID).

The control technologies being considered for today's proposed standards remove multiple HAPs. Today's proposed regulations limit total HAP emissions because they are technology-based standards that do not distinguish among individual HAPs according to particular characteristics, such as toxicity. In addition, analytical methods are not available for each individual HAP, but are available for those compounds believed to represent the majority of total HAP emissions. Therefore, today's proposed regulations limit total HAP emissions. This approach will achieve the maximum reduction in hazardous air pollutant emissions.

EPA considered, but rejected, proposing regulations to limit emissions of a few individual HAPs of concern (e.g., chloroform and chlorine) in addition to aggregate HAPs. This consideration is further discussed in Section X.D.4, which presents the maximum achievable control technology (MACT) floor level control technology. Because the control technologies differ in the amount of specific HAPs they reduce, EPA solicits comment on setting regulations to limit emissions of both total HAP and one or more individual HAPs.

Many of the HAPs emitted from the pulp and paper source category are also volatile organic compounds (VOC). Although the air emission standards being proposed today do not require control of VOC emissions, the control technologies upon which these standards are based also significantly reduce VOC emissions. Emissions of VOC are of concern because, among other reasons, they contribute to ozone formation. Air emissions of total reduced sulfur (TRS) compounds from pulping processes and process wastewater streams are also controlled with the HAP and VOC. Emissions of TRS produce foul odors.

B. Selection of Emission Points

The air emission points selected for today's proposed regulations include all significant points in the pulping and bleaching processes and in the process wastewater collection and treatment systems. The pulping process emission points include all open process equipment and vents associated with pulping process equipment, beginning with the digester, and up to and including the last piece of pulp conditioning equipment prior to bleaching. These last pieces of pulp conditioning equipment generally serve the purpose of removing dirt, fines, and shives from the washed pulp and thickening of the pulp prior to bleaching. The emission points within the pulping process include, but are not limited to, those listed in Table X–1.

The bleaching process emission points include all open process equipment and vents associated with each bleaching stage where oxidizing chemicals are used to delignify and brighten the pulp. This definition includes, but is not limited to, oxygen delignification stages, pre-chlorination stages, chlorine and chlorine dioxide stages, and totally chlorine-free stages such as ozonation, oxygen, and peroxide stages. Common emission points within the bleaching stages include tower vents, open washers and washer vents, and seal tank vents.

TABLE X–1.—LIST OF COMMON POTENTIAL EMISSION POINTS WITHIN THE PULPING PROCESS

Digester relief vents
Turpentine recovery system vents
Digester blow gas vents
Noncondensible gas system vents
Knotter
Brownstock or pulp washer
Washer foam tanks
Washer filtrate tanks
Decker
Screen
Weak black liquor storage tank
Evaporator noncondensible gas vent
Evaporator hotwell gas vent

Different technologies are effective for controlling halogenated and nonhalogenated compounds. The selection of the floor level of control technology, discussed in Section X.D.4, is in part a function of whether halogenated compounds are emitted. Halogenated compounds are present in air emissions from bleaching processes where chlorine and chlorine-containing compounds are applied, but are not emitted from pulping processes. Therefore, for the purpose of the air emission standards being proposed today, the pulping component (as opposed to the pulping process) shall be defined to include all process equipment beginning with the digester system and up to and including the last piece of pulp conditioning equipment prior to the bleaching component. The bleaching component (as opposed to the bleaching process) shall be defined to include all process equipment beginning with the first application of chlorine or chlorine-containing compounds up to and including the final bleaching stage. Treatment with ozone, oxygen, and peroxide may occur before or after the addition of chlorine. If treatment occurs before this chlorine addition, these stages are included in the pulping component; if treatment occurs after the addition of chlorine, these bleaching stages are included in the bleaching component. This delineation of the pulping and the bleaching components corresponds to the MACT floor level of control.

The process wastewater component includes air emissions from all process wastewater streams produced from the pulping and bleaching processes. Process wastewater streams commonly produced from pulping processes include digester condensates (e.g., digester blow gas condensates, non-condensible gas (NCG) system condensates, digester relief condensates), decanted wastewaters from turpentine recovery systems, and evaporator condensates. The process wastewater streams associated with bleaching processes include acid and caustic filtrates from all bleaching stages. The air emission release points in the process wastewater collection and treatment system include individual drain systems, which are comprised of equipment such as open trenches, drains, manholes, junction boxes, lift stations, and weirs; surface impoundments; wastewater tanks; clarifiers; and biological treatment units. At these release points, HAPs can be transferred from the process wastewater streams to the air.

C. Definition of Source

For today's regulations, EPA is proposing to define a single source to include the pulping processes, the bleaching processes, and the pulping and bleaching process wastewater streams at a pulp and paper mill. With this definition, all pulping process emissions, all bleaching process emissions, and all emissions from process wastewater streams from the pulping and bleaching processes will be subject to the standards.

EPA considered three definitions of "source" for today's regulations. One option was to define each piece of equipment in the pulping and bleaching processes, as well as each process wastewater stream, as a source. This definition would result in the existence of multiple sources within a mill, each subject to today's standards. EPA also considered identifying three kinds of sources: the pulping process, the bleaching process, and all associated process wastewater streams. The third option defined a single source that included all pulping processes, all bleaching processes, and process wastewater streams, combined. Using this definition, there would be only one source within a mill.

In deciding which definition of source to propose with today's rule, EPA considered the impact of the definition on mills making changes to existing facilities. In general, the narrower the definition of source, the more likely it is that changes to existing facilities will be deemed "new sources" under the CAA.

The CAA and the CWA differ regarding applicability requirements and compliance deadlines for new sources. Under the CAA, sources that are constructed or reconstructed after *proposal* of a standard are considered to be new sources. With limited exceptions, these new sources must be in compliance with new source standards on the date those standards are promulgated. Under the CWA, only those sources constructed or reconstructed after *promulgation* of an effluent guideline are considered to be new sources (with limited exceptions). Compliance with the limitations in the effluent guidelines is required when those sources begin discharging.

In light of the foregoing, any pulp and paper mill planning to construct or reconstruct a source of HAPs between proposal and promulgation of these integrated regulations would find it necessary to plan for compliance with the NESHAP (required on the date of promulgation) without knowing the requirements of the effluent guidelines for the industry. This could lead to situations where mills install expensive air controls to comply with the NESHAP, only to find that the equipment on which those controls are installed must be changed to comply with the effluent guidelines. This situation would appear to be inconsistent with one objective of the integrated rulemaking: allowing facilities to do integrated compliance planning.

One means of addressing this problem is to define "source" broadly for this NESHAP. If "source" is defined to include all pulping processes, all bleaching processes, and all associated process wastewater streams at mills, there will be far fewer instances in which a source will be constructed or reconstructed between proposal and promulgation than if "source" is defined to be an individual process or individual piece of process equipment. If "source" is defined to mean all pulping processes, all bleaching processes, and all process wastewater streams at mills, a piece of equipment that is added will not constitute a "new source", in most situations, but instead will be considered a change to an existing source. Such changes would be required to comply with the existing source standards at some period of time after promulgation of the standards, when all requirements of the effluent guidelines are known. If a change occurs after a State has an approved part 70 Permit program in place, it may be considered a modification and thus subject to case-by-case MACT determinations. Further details on this process are given in Section X.L.

EPA solicits comments on the definition of "source" that would be most appropriate for this rule. In particular, EPA solicits comments on whether the broad definition of "source" in today's proposal defining a single source to include all pulping processes, bleaching processes, and process wastewaters) will in fact promote integrated compliance planning, either during the period between proposal and promulgation or once the rule is promulgated. EPA also solicits comment on the impact of adopting either of the two alternative approaches considered, but not selected, in defining the source for today's proposal.

D. Determination of MACT Floor

Emission standards for new and existing sources promulgated under Section 112(d) of the CAA must represent the maximum degree of emission reduction achievable; this is typically referred to as MACT. The CAA establishes minimum levels, often referred to as MACT floors, for NESHAP. The floors must be determined as follows:

- for existing sources in a category or subcategory with 30 or more sources, the MACT floor cannot be less stringent than the "average emission limitation achieved by the best performing 12 percent of the existing sources . . ."
- for existing sources in a category or subcategory with less than 30 sources, the MACT floor cannot be less stringent than the "average emission limitation achieved by the best performing 5 sources."
- for new sources, the MACT floor cannot be "less stringent than the emission control that is achieved by the best controlled similar source . . ."

EPA considered three primary factors in establishing the MACT floor for this source category:

- the meaning of the statutory language used in Section 112(d)(3);
- whether there was a need to subcategorize the industry, given that MACT floors are established on a category or subcategory basis; and
- the control technologies in use in the industry.

EPA relied on the survey described in Section X.D.3 to determine which control technologies were being used in the industry and the extent to which these control technologies are used. EPA then determined the emission limitation achieved by these control technologies. The MACT floor level of control is described in Section X.D.4. The MACT floor established for existing and new sources is identified in Sections X.D.5 and 6.

1. Interpretation of Statutory Language

CAA sections 112(d)(3) (A) and (B) require that EPA set standards no less stringent than "the average emission limitation achieved by the best performing 12 percent of the existing sources" if there are at least 30 sources in a category or "the average emission limitation achieved by the best performing 5 sources" if there are fewer than 30 sources in a category. During the development of these proposed rules, EPA considered two interpretations of this statutory language. One interpretation groups the words "average emission limitation achieved by" together in a single phrase and asks what is the "average emission limitation achieved by" the best performing 12 percent. This interpretation places the emphasis on "average." It would correspond to first identifying the best performing 12 percent of the existing sources, then determining the average emission limitation achieved by these sources as a group. Another interpretation groups the words "average emission limitation" into a single phrase and asks what "average emission limitation" is "achieved by" all members of the best performing 12 percent. In this case, the "average emission limitation" might be interpreted as the average reduction across the HAPs emitted by an emission point over time. Under this interpretation, EPA would look at the average emission limits achieved by each of the best performing 12 percent of existing sources, and take the lowest. This interpretation would correspond to the level of control achieved by the source at the 88th percentile if all sources were ranked from the most controlled (100th percentile) to the least controlled (1st percentile). For today's proposed regulation, the Administrator is using the first interpretation described above, which interprets the statutory language to mean that the MACT floor for existing sources should be set at the level of control achieved by the "average" of the best performing 12 percent.

In establishing the MACT floor for today's proposed regulations, EPA also considered two possible meanings for the word "average" as the term is used

in CAA section 112 (d)(3)(A) and (B). First, EPA considered interpreting "average" as the arithmetic mean. The arithmetic mean of a set of measurements is the sum of the measurements divided by the number of measurements in the set. EPA determined that the arithmetic mean of the emissions limitations achieved by the best performing 12 percent of existing sources in some cases would yield an emission limitation that fails to correspond to the limitation achieved by any particular technology. Accordingly, EPA decided not to select this approach. EPA also considered interpreting "average" as the median emission limitation value. The median is the value in a set of measurements below and above which there are an equal number of values (when the measurements are arranged in order of magnitude). EPA selected this interpretation because, for all cases in the pulp and paper industry, it yields a value that corresponds to a particular emission control technology.

Thus, in identifying the MACT floor for this source category, EPA determined the median emission limitation achieved by the best performing 12 percent of existing sources. This determination was made by identifying the emission limitation achieved by those sources within the top 12 percent, arranging those emissions limitations by magnitude, and taking the control level achieved by the median source. This is mathematically equivalent to identifying the emission limitation achieved by the mill at approximately the observed 94th percentile level of emissions control. For purposes of today's proposal, EPA identified the emission limitation achieved at a mill based upon the type of control technology used.

One possible way to establish the MACT floor, not used by EPA in this proposal, would be to identify a mass emission limit or a mass emission reduction percentage across the source as a whole, or across the process area. For the broad source definition in today's proposal, this would mean identifying the floor based upon a mass emission limit or a mass emission reduction percentage achieved at the best performing 12 percent of the process areas as a whole. For the more narrow definition of source by process area, this would mean identifying the floor based upon a mass emission limit or a mass emission reduction percentage at the best performing 12 percent of the process areas (e.g., the best performing 12 percent of the pulping area sources). However, EPA does not consider data currently available as sufficient to establish either a mass emission limit or a mass emission reduction percentage for process areas or entire sources. In part as a result, EPA elected to establish the MACT floor on a emission point basis according to control technologies currently in use in the industry at individual emission points and knowledge of the performance capabilities of these control technologies.

EPA solicits comment on its interpretation of "the average emission limitation achieved by the best performing 12 percent of the existing sources" (CAA § 112(d)(3)(A)) and its methodology for determining the MACT floor. EPA specifically solicits comment on whether the MACT floor should be set at the 88th or 94th percentile level of control. EPA also requests information and data necessary to develop a mass emission limit or mass emission reduction percentage and comments on whether a model plant and emission factor approach could be used to estimate these values.

2. Subcategorization

Another step in establishing the MACT floor was deciding whether to subcategorize the source category.

Subcategorization may be appropriate if some segments of the industry have relevant characteristics, such as applicable control technologies or costs of implementation that are significantly different from others. In developing today's emission standards, EPA considered subcategorizing according to pulping process (kraft, sulfite, soda, and semi-chemical), end product (papergrade or dissolving grade pulp), and wood species (hardwood or softwood). However, common control technologies, described in the following section, are applicable to all segments of the industry regardless of pulping process, end product, or wood species. Based upon available data, the application of these technologies effectively controls HAP emissions from the source (i.e., the pulping, bleaching, and process wastewater components) for all mills subject to today's proposed regulations. Accordingly, EPA decided not to propose subcategories for this NESHAP.

EPA is aware that scrubbing, rather than venting to a combustion device, is utilized in sulfite mills to control pulping process emissions. EPA solicits comments and requests data regarding: The efficiency of scrubbers for controlling HAP emissions from pulping process vents at sulfite mills; whether standards for sulfite mill pulping processes should be based on the use of scrubbing; and whether this NESHAP should contain a separate subcategory for sulfite mills.

EPA is also aware that soda mills do not have gas collection systems in place for pulping area vents, because soda mills do not use sulfur-containing chemicals to digest the wood. EPA believes that gas collection followed by combustion is a feasible control technology to reduce HAP emissions from soda pulping processes. However, during the development of these proposed regulations, representatives of soda mills urged EPA to create a separate subcategory for those mills, due in part to the extra expense soda mills might incur for installing gas collection systems. Such systems are already in place in most kraft mills, which emit (and are currently required to control) sulfur-containing compounds. EPA solicits comments on the HAP content of soda mill pulping process vent streams, the capacity of existing combustion devices, the costs of collecting and routing these vent streams to a combustion device, and whether this NESHAP should contain a separate subcategory for soda mills.

3. Industry Survey

To determine what control technologies are being used in the industry, and the frequency with which those control technologies are used, EPA utilized results from a voluntary survey conducted by the American Forest and Paper Association (AFPA; formerly the American Paper Institute [API]) and the National Council of the Paper Industry for Air and Stream Improvement (NCASI). The AFPA and NCASI sent a voluntary survey in February 1992 to member institutions, including the majority of mills that would be regulated under today's proposed emission standards. Of the 124 facilities that responded, 116 are estimated to be subject to today's proposal. The responses came from a cross section of mills of varying size and location, using the range of pulping and bleaching processes subject to today's proposed rules. Data from the survey included information on the percentage of emission points controlled from individual process units and the control technologies utilized in each of the three main emission areas—pulping, bleaching, and wastewater.

4. MACT Floor Level Control Technologies for Existing and New Sources

As described in Section X.D, the MACT floor technologies are based upon technologies in use in the industry. Survey responses indicated that the following technologies are in

use: combustion devices, process changes, gas scrubbers, steam strippers, and air strippers. Combustion devices are applicable for controlling HAP emissions from the pulping component, as well as for controlling emissions from the bleaching and process wastewater components. Process changes and gas scrubbing are used to reduce HAP emissions in the bleaching component. Steam strippers and air strippers are used to remove HAPs from process wastewaters. Combustion devices are used to destroy the HAPs removed by steam stripping and air stripping. A detailed description of these control technologies is included in the BID. Combustion devices are also used in the industry to reduce HAP emissions from the pulping component. These include stand-alone control devices such as thermal incinerators and existing devices such as lime kilns, power boilers, and recovery furnaces.

The potential floor technologies for the bleaching component include gas scrubbing and process changes. Process changes affect the formation of bleach plant HAP compounds in the pulping and bleaching processes by changing characteristics of the emission point or by altering the process operating conditions or bleaching chemicals used. Pulping process changes (e.g., extended cooking and improved washing) reduce the quantity of lignin in the pulp going to the bleaching process, thereby reducing the amount of chlorinated bleaching chemicals used and potentially reducing the quantity of chlorinated compounds formed. The bleaching process changes include reduced use of chlorinated bleaching chemicals, thereby further reducing the quantity of chlorinated compounds formed.

Based upon the available data, process change technologies applied to the bleaching process are projected to decrease emissions of chlorinated HAPs, including chloroform, chlorine, and hydrochloric acid, but increase air emissions of some nonchlorinated HAPs, including methanol, methyl ethyl ketone, and formaldehyde. EPA did not find process changes to be the MACT floor for the bleaching area because their overall effect is no statistically significant net impact on total HAP emissions. Emission factors used to conduct this assessment are presented in the BID. EPA solicits data on the effect of process changes on air emissions of total HAP as well as specific HAPs.

EPA also evaluated the HAP air emission reductions achieved by scrubbing bleaching component emissions. Based upon available information, gas scrubbers are the most effective technology in use for reducing total HAP emissions from the bleaching component. Thus, gas scrubbers were selected as the floor technology for the bleaching component.

However, because available data indicate that process changes are particularly effective for reducing emissions of chlorinated organics, some of which are not controlled effectively through scrubbing, EPA also considered the use of process changes in conjunction with scrubbing as a control technology for the floor. Based upon available data, the use of these technologies in combination results in no additional overall air emission reduction from a source than scrubbing alone. Because no additional air emission reduction would occur, EPA rejected this combination as the basis for the floor.

EPA solicits data and comments on the following aspects on the floor technology for the bleaching component:

- The types of process changes in use in the industry, and the effectiveness of these changes for reducing emissions of total HAP, as well as individual compounds.
- Whether the combination of process changes and gas scrubbing could be identified as the MACT floor for purposes of these standards.
- Because a significant number of mills have greater than 50 percent chlorine dioxide substitution, which reduces the emissions of chlorinated organic HAPs, process changes could be considered as candidates for a MACT floor technology for chlorinated HAPs. Therefore, EPA solicits comment on whether emission limits for chlorinated organic compounds should be set, based on the reductions obtained by process changes.

Technologies used in the industry to remove organic compounds from process wastewaters include steam stripping and air stripping. Although air strippers are employed in the pulp and paper industry to reduce TRS emissions, steam strippers achieve a higher percent removal of total HAP emissions. Therefore, steam stripping is the best technology in use for removing organic compounds from process wastewater. The overhead gases from these strippers are typically sent to combustion devices.

After identifying the best technologies in use, EPA used industry survey data to identify the percentage of emission points that were controlled by these technologies. This information, summarized in Table X–2, was used to establish the MACT floor for existing and new sources.

TABLE X–2.—MACT FLOOR FOR EXISTING AND NEW SOURCES

Emission point	Characteristics of baseline		Characteristics of floor	
	Percent controlled	Control efficiency[1] (percent)	*Existing:* control efficiency of median of best performing 12% (percent)	*New:* control efficiency of best controlled similar source (percent)
Pulping Component:				
Digester Blow or NCG System	82	98	98	98
Digester Relief or Turpentine Recovery System	80	98	98	98
Evaporator NCG and Evaporator Hotwell Gases	80	98	98	98
Oxygen Delignification Unit[2] (Blow Gas and Washer)	25	98	98	98
Foam Breaker Tank or Filtrate Tanks	25	98	98	98
Weak Black Liquor Storage	25	98	98	98
Knotter	7	98	98	98
Brownstock or Pulp Washer	7	98	98	98
Deckers and/or Screens	4	98	0	98
Bleaching Component[3]				
Washer Vents	15	99	99	99

TABLE X-2.—MACT FLOOR FOR EXISTING AND NEW SOURCES—Continued

Emission point	Characteristics of baseline		Characteristics of floor	
	Percent controlled	Control efficiency [1] (percent)	*Existing:* control efficiency of median of best performing 12% (percent)	*New:* control efficiency of best controlled similar source (percent)
Tower Vents	15	99	99	99
Seal Tank Vents	15	99	99	99
Process Wastewater Component:				
Digester Condensates	12	90	90	90
Evaporator Foul Condensates [4]	26	90	90	90
Turpentine Recovery Wastewaters	22	90	90	90

[1] Control efficiency of pulping component based upon use of a combustion device. Control efficiency of bleaching component based upon use of a gas scrubber. Control efficiency of process wastewater component based upon use of a steam stripper.
[2] 3 of 12 units.
[3] Vents are for C, E_1, H, D_1, E_2, and D_2 stages.
[4] Foul means ≥500 ppmw HAP.

The column labeled "control efficiency" is based on EPA's knowledge of the performance levels achievable by the control technology used. This information forms the basis of the MACT floor level of control.

5. MACT Floor for Existing Sources

As shown in Table X-2, the control basis of the floor for existing sources is:

- Combustion of all pulping component emission points except equipment after primary washing that is used to remove dirt, fines, and shives or to thicken the pulp (e.g., deckers and screens);
- Scrubbing of all bleaching component emission points; and
- Steam stripping of certain pulping process wastewater streams in the process wastewater component to remove HAP from the process wastewater, followed by combustion of stripper overhead gases.

The best controlled existing sources control all pulping and bleaching emission points (with the exception noted above) for which information is available. However, there exist low flow or episodic pulping and bleaching component vents for which no information was gathered, but which are believed to be uncontrolled. Sections X.G and X.H discuss the development of applicability levels to identify those vents that are not controlled at the floor.

Similarly, the best controlled existing sources do not apply steam strippers to every pulping process wastewater stream. There are three types of pulping process wastewater streams that are steam stripped—digester condensates, evaporator condensates, and turpentine recovery wastewaters. The MACT floor control technology, steam stripping followed by combustion, is not currently applied to any bleaching process wastewater streams. In addition, there are also pulping process wastewater streams that are not controlled. Therefore, the floor for these process wastewater streams is no control. Similar to pulping and bleaching component emission points, the development of applicability levels to identify those process wastewater streams not requiring control are discussed in Sections X.G and X.H.

The floor level of control for the pulping component includes combustion of emissions from oxygen delignification units. Based upon available information, there are 12 oxygen delignification units in use in the industry and three of these are controlled. Applying the framework set forth in § 112(d)(3)(B), and interpreting "average" to mean median, the average emission limitation achieved by the best performing 5 sources would be the level of control used by the third best-controlled source. That unit controls its oxygen delignification by venting to a combustion device to achieve a 98 percent reduction in HAP emissions. Therefore, the floor level of control for oxygen delignification units, where those units are found, is combustion designed to achieve a 98% reduction.

In establishing MACT, EPA also evaluated options in which the oxygen delignification units were not included in the MACT floor level of control, but were instead included in the option above the floor. This analysis indicated that it was highly cost-effective ($750/Mg) to control at the level above the floor, which included oxygen delignification units. Using this analysis, the selected MACT technology basis would have been the option above the floor. Oxygen delignification units would also have been controlled by combustion. EPA solicits comment on the inclusion of oxygen delignification units in the MACT floor with other pulping component emission points, and requests data on the use of such units within the industry.

6. MACT Floor for New Sources

The MACT floor for new sources (also shown in Table X-2) is the MACT floor for existing sources plus combustion of HAP emissions from equipment following primary washing that is used to remove dirt, fines, and shives or to thicken the pulp (e.g., deckers and screens). As shown in Table X-2, this technology was selected because it is used by the best controlled similar source.

E. Selection of Basis of Proposed Standards for Existing Sources

1. Analyzing MACT Options

In addition to evaluating the MACT floor level of control, EPA also evaluated a number of more stringent options. This evaluation included consideration of technologies to control HAP emissions from emission points not controlled at the floor. It also included consideration of controlling emission points to a level more stringent than the floor level of control.

The MACT floor for existing sources does not include the control of certain emission points within the pulping, bleaching, and process wastewater components. Specifically, the floor does not include control of:

- Emissions from pulping component equipment used to remove dirt, fines, and shives or to thicken the pulp (e.g., deckers and screens) that follows primary washing;
- Emissions from low flow or episodic pulping and bleaching component vents not controlled at existing mills;

• Scrubber off-gases in the bleaching component; and

• All bleaching process wastewater streams and pulping process wastewater streams with low HAP concentrations and flow rates.

No other technologies were identified that would further reduce emissions from points controlled at the floor. EPA did not have sufficient data to fully characterize the low flow or episodic pulping and bleaching component vents not controlled at the floor. As a result, a complete analysis of the potential to control these sources is not possible. EPA solicits comments and data on the characterization of these vents and their control potential.

EPA considered but rejected further control of the process wastewater streams listed above. Based on knowledge and information that EPA has been developing on steam stripping wastewater in the Synthetic Organic Chemical Manufacturing Industry (SOCMI), the costs of controlling process wastewater streams with low HAP concentrations is unreasonable.

Thus, Table X–3 presents three MACT control options for existing sources—the floor and two additional options representing control levels more stringent than the floor. Each of these control options contain pulping, bleaching, and process wastewater components. Although additional options were considered, EPA selected these three options as the best candidates for the MACT technology basis.

The MACT control options for existing sources are shown in Table X–3. A mill-specific industry profile and model process units were used to estimate the impacts of the options. The mill-specific industry profile contains information on the 161 mills to be regulated under the NESHAP and was developed using information from EPA's wastewater sampling program, emissions testing program, 1990 census questionnaire, API/NCASI survey, and other sources.

EPA developed model process units to estimate the national impacts of implementing each of the control options. The model process units developed include 18 pulping and 12 bleaching processes. The model process units were assigned to the mills in the mill-specific industry profile based upon capacity and process type.

TABLE X–3.—MACT CONTROL OPTIONS FOR EXISTING SOURCES

Pulping component	Bleaching component	Wastewater component
Floor—Combust Emissions from: Digester blow or NCG system Digester relief or turpentine recovery system Evaporator noncondensible gases and evaporator hotwell gases Foam breaker tank or filtrate tank Weak black liquor Knotter Brownstock or pulp washer Oxygen delignification unit (blow gas and washer)	Scrub: 1st C stage All D stages 1st and 2nd E stage 1st H-stage	Steam strip: Digester Condensates. Evaporator Foul Condensates. Turpentine Recovery Wastewaters.
Option 1—Same as floor, but add combustion of emissions from deckers and screens	Same as floor	Same as floor.
Option 2—Same as floor	Same as floor, but add combustion of scrubber off-gases	Same as floor.

EPA used outputs generated by assigning these model processes to specific mills to calculate the pollutant reductions and costs of various levels of control. For example, uncontrolled air emissions were calculated by multiplying model process emission factors by mill-specific process capacities.

Baseline air emissions were calculated from the uncontrolled air emissions by assigning appropriate control efficiencies to the control devices (if any) known to be present at each facility The baseline emissions, calculated by emission point, were then summed for each process and mill. National baseline emissions were estimated by summing emissions from all individual mills.

Air emission control impacts (i.e., emissions, emission reductions, costs) were calculated for each mill for each MACT control option. To calculate controlled air emissions, the control efficiency required by each control option was assigned to each emission point not already controlled to this level at baseline. Emission reductions were calculated as the difference between baseline emissions and controlled emissions.

The emission reductions achieved for each option were summed for each process line, for each mill, and then for all mills combined, to generate national air emission reduction impacts.

Costs were calculated for each control device using procedures described in the BID. Because the air controls may be applied to multiple emission points within a mill, control costs were not calculated by emission point, but, instead, were calculated by process line or by mill. That is, depending on the capacity of the applicable control device, multiple streams were assumed to be routed to the device together (e.g., via a common header). Costs for each mill were summed to determine an estimate of national cost impacts.

2. Selection of Basis of Standard For Existing Sources

EPA considered several factors in selecting the MACT technology upon which the proposed standards are based. These factors include: The magnitude of the emission reductions achievable, cost of the emission reductions, other non-air quality health and environmental impacts, and energy requirements. The non-air quality health and environmental impacts, as well as the energy impacts, of the three options are not significantly different. Therefore, cost effectiveness, which is a function of emission reductions and associated costs, was used as the primary criterion for option selection.

For existing sources, EPA evaluated the national impacts of the baseline level of control, the floor level of control, and two control levels based upon options more stringent than the floor. The floor level of control reduces total HAP emissions by 120,000 Mg (approximately 70 percent).

Option 1 includes the floor level of control and combustion control of emissions from pulping equipment used to remove dirt, fines, and shives or to thicken the pulp (e.g., deckers and screens) that follows primary washing. An additional 320 Mg of HAPs are reduced at an incremental cost effectiveness of $91,400 per Mg.

Option 2 includes the floor level of control and combustion control of bleaching process scrubber off-gases. An additional 1,000 Mg of HAPs are reduced from that achieved at the floor at an incremental cost effectiveness of $91,200 per Mg.

Scrubbing followed by combustion of the scrubber off-gases reduces more HAP emissions than scrubbing alone, as scrubbing removes inorganic chlorine and methanol, and combustion destroys the remaining insoluble organic compounds such as chloroform. However, combustion after scrubbing achieves little additional HAP emission reduction beyond scrubbing alone, due to the high efficiency of scrubbing for removing methanol, which is the predominant HAP. The cost effectiveness of Option 2 is thus unreasonable for the additional HAP emission reduction achieved, and EPA rejected this option from further consideration.

Although not presented as an option above, EPA also evaluated combustion followed by scrubbing of the combustion device exhaust. As with Option 2, little additional HAP emission reduction is achieved over scrubbing alone, due to the efficiency of scrubbing for removing the predominant HAP-methanol. In addition, combustion of vent streams prior to scrubbing introduces chlorinated organic compounds (e.g., hydrochloric acid and chlorine) that are highly corrosive and more expensive to incinerate in the combustion device. Thus, the cost effectiveness of combustion followed by scrubbing is unreasonable for the HAP emission reduction achieved, and this option was also rejected.

The Agency did not consider combustion of selected bleach plant vent streams followed by scrubbing of vent streams with high chlorine concentrations. Such an option would combust the vent streams with the greatest organic HAP emissions and would potentially be more cost effective than scrubbing and combusting all bleach plant vent streams. EPA requests comment on whether this would be a reasonable option, and on which vent streams would be included under such an option.

After considering the other technology options, EPA selected the floor as the basis for the proposed standards for existing sources. Options 1 and 2 are not selected as the basis for the proposed standard because in both cases the additional HAP emission reduction does not justify the high costs of control. The proposed existing source MACT standards based on the floor-level control technology are projected to result in a significant reduction in HAP emissions from the pulp and paper source category.

EPA requests data and solicits comments on several factors related to selection of the basis for the MACT standards for the bleaching component. Although data available prior to today's proposal showed combustion of bleaching plant vent streams (either before or after scrubbing) to have unreasonable cost effectiveness, the Agency believes that the costs of combusting bleaching component vent streams may be overestimated and emissions reductions may be underestimated. If methanol and chloroform concentrations have been underestimated or scrubber efficiencies for methanol overestimated, the cost effectiveness of combusting bleaching component vent streams would be more reasonable, and might be a viable option. EPA requests data and comments on methanol and chloroform concentrations in bleaching component vent streams and on the efficiency of scrubbing for removing methanol.

F. Selection of Basis for Proposed Standards for New Sources

1. Analyzing MACT Options

The MACT floor for new sources does not include control of certain emission points within the bleaching and process wastewater components:

- Scrubber off-gases in the bleaching component;
- All bleaching component process wastewater streams; and
- Pulping component process wastewater streams with low total HAP concentrations and flow rates.

As discussed in Section X.E.1, EPA considered but rejected control of the process wastewater streams listed above because analyses in support of previous regulations indicate that the costs of controlling these dilute streams is unreasonable. The low flow and episodic pulping and bleaching component vents that are not controlled at the floor for existing sources, as described in Section X.E.1, are also not controlled at the floor for new sources for the same reasons. Two MACT control options for new sources were evaluated—the floor and one option representing a control level more stringent than the floor, which includes the combustion of scrubber off-gases. Combustion before scrubbing was considered but rejected for the same reason discussed in the MACT option evaluation for existing sources. The MACT control options analyzed for new sources are shown in Table X–4.

To estimate impacts of the MACT options for new sources, EPA developed a model mill. The model mill is a 1,000 ton per day greenfield papergrade kraft mill pulping softwood. The process includes oxygen delignification, improved washing, and 100 percent substitution of chlorine dioxide for chlorine in the bleaching process.

TABLE X–4.—MACT CONTROL OPTIONS FOR NEW SOURCES

Pulping component	Bleaching component	Wastewater component
Floor—Combust Emissions from:	Scrub:	Steam Strip:
Digester blow or NCG system	1st C stage	Digester Condensates.
Digester relief or turpentine recovery system	All D stages	Evaporator Foul Condensates.
Evaporator noncondensible gases and evaporator hotwell gases	1st and 2nd E stage	Turpentine Recovery Wastewaters.
Foam breaker tank or filtrate tank	1st H-stage	
Weak black liquor		
Knotter		
Brownstock or pulp washer		
Oxygen delignification unit (blow gas and washer)		

TABLE X-4.—MACT CONTROL OPTIONS FOR NEW SOURCES—Continued

Pulping component	Bleaching component	Wastewater component
deckers/screens Option 1—Same as floor	Same as floor, but add: combust scrubber off-gases	Same as floor.

These process parameters were selected based on available information about new mills in the industry, and are consistent with the technology basis for the effluent guidelines limitations NSPS. The estimated impacts are calculated assuming that the mill will have to upgrade from a baseline level of control represented by the NSPS for emissions from kraft mills. Secondary impacts of the selected new source MACT option are summarized in Section XI of this document.

2. Selection of MACT Option for New Sources

The factors evaluated in selecting the existing source standards were also considered to select the standards for new sources. The non-air quality health and environmental impacts, as well as the energy impacts, of the two options were not significantly different. Therefore, cost-effectiveness, a function of emission reductions and associated costs, was used as the primary criterion for option selection.

The floor level of control reduces annual total HAP emissions by 384 Mg at an annual cost effectiveness of $6,600 per Mg for the model mill. Option 1 includes the floor level of control and control of bleaching process scrubber off-gases. The incremental cost effectiveness of this option is $90,000 per Mg.

Based on these factors, the control option selected as the basis for the proposed MACT standards for new sources is the floor. Option 1 was not selected as the control basis because the additional HAP emissions reduction is small and the incremental cost effectiveness is unreasonable.

EPA solicits comments and requests data on the selection of the basis of the new source MACT standards for the bleaching component, which are those mentioned for existing sources.

G. Selection of the Format for the Proposed Standards

1. Statutory Requirements

Section 112 of the CAA requires that emission standards for control of HAPs be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce emission standards. Emission standards can be written in the form of a percent reduction, a concentration, or a mass emission limit. Section 112(h)(2) identifies two conditions under which it is not feasible to establish an emission standard. These conditions are: if the pollutants cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant, or if the application of measurement technology to a particular class of sources is not practicable because of technological and economic limitations. If emission standards are not feasible to prescribe or enforce, EPA may instead establish design, equipment, work practice, or operational standards, or a combination thereof.

The standards proposed today are a combination of emission standards and equipment, design, work practice, and operational standards. Wherever feasible, emission standards have been proposed. However, in some cases, emission limitations would not adequately ensure that the maximum emission reductions required by these standards are achieved. In those cases, a combination of equipment, design, and work practice and operational standards are proposed. These alternative standards have been determined by EPA to be equivalent to the emission standards proposed today. In addition to ensuring that maximum emission reductions are achieved, they are included to offer the owner or operator of an affected source the maximum flexibility in complying with these standards. The specific formats for each of the components are discussed in the following sections. The selection of numerical values for each of the proposed formats is discussed in Section X.H of this notice.

2. Format of Standards for the Pulping Component

The standards for controlling air emissions from the pulping component are a combination of equipment, design, work practice, and emission standards. The standards include requirements for enclosures and closed vent systems, as well as for reduction of HAP emissions in the pulping component. The pulping component standards also include applicability levels to identify those pulping vents that are not required to be controlled. The rationale for choosing the format of the standards is discussed below.

a. *Applicability Levels.* As discussed in Section X.D., EPA identified certain low flow and episodic pulping vents that are not believed to be controlled at the floor. These points include unintentional pressure release points and sample line vents. These vents are small, intermittent sources with little emission potential. EPA did not have sufficient data to fully characterize these emission points or to make a floor determination. Based upon previous experience and engineering judgment, these vents are assumed to be uncontrolled at the floor. In addition, EPA decided not to require these sources to be controlled under the NESHAP. Since limited data are available, definition of these emission points is difficult. However, EPA can establish parameters that would be characteristic of the low flow and episodic emission points. These streams can be identified by volumetric flow rate, mass flow rate, or liquid phase HAP mass loading of the combined streams entering pulping component process equipment. EPA is therefore proposing that volumetric flow rate, mass flow rate, and HAP mass loading are appropriate formats to identify these points. EPA requests data and solicits comment on the types of pulping component emission points that are not controlled within the industry, and whether volumetric flow rate, mass flow rate, and HAP mass loading are in fact good parameters for identifying such emission points.

b. *Pulping Component Enclosures and Closed Vent Systems.* A combination of equipment and work practice standards is proposed for pulping component enclosures and closed vent systems. These standards are proposed to ensure that all open process equipment is enclosed such that a negative pressure drop is maintained at each enclosure opening and that all emissions from process equipment within the pulping component are transported to the control device via enclosed piping and duct work with no detectable leaks. Proper work practices are needed to ensure that the equipment will capture and convey the emissions to a control device. The proposed work practice includes periodic monitoring,

inspections, and repair. An emissions standard was not a reasonable format for pulping component closed vent systems because it would require an enclosure to be used to capture and measure emissions from an already enclosed system.

c. *Reduction of HAP in the Pulping Component Emissions.* An emission standard and two equipment and design standards are proposed for control of HAP emissions from the pulping component of this source category. The proposed emission standard includes two alternatives—a weight percent reduction and an outlet concentration. A mass emission limit was not appropriate for pulping process emission points because variation within the industry, including capacity and processes, greatly affects emission rates; and data were not available to determine the mass limits that would address this variation. In general, a weight percent reduction format will ensure that the MACT is applied and the required emission reductions are realized. However, the technology that is the basis for MACT (combustion) cannot be demonstrated to achieve the selected percent reduction for streams with low organic HAP concentrations. Therefore, an alternative concentration limit that is achievable has been included. The combination of the weight percent reduction or concentration limit will ensure that the best technology is applied to all pulping process emission points, whether they have higher or lower concentrations.

Two equivalent standards—each of which is an equipment and design standard—are also proposed for pulping component emission control. These standards have been determined by EPA to be equivalent to the emission standards, and are proposed to provide maximum compliance flexibility. The selection of the numerical values for these standards is presented in Section X.H of this notice.

The first equipment and design standard is the requirement that gas streams from pulping component emission points be routed to a combustion device designed and operated at a minimum temperature and residence time. The second equipment and design standard requires that gas streams from pulping component emission points be routed to a boiler, lime kiln, or recovery furnace and introduced: (1) Into the flame zone or (2) with the primary fuel. Each of these alternative standards would achieve emission reductions equivalent to the proposed emission standard, as they are based on the performance of the MACT technology—i.e., combustion.

3. Format of the Standards for the Bleaching Component

The standards for controlling air emissions from the bleaching component are a combination of equipment, design, work practice, and emission standards. The standards include requirements for enclosures and closed vent systems, as well as for reduction of HAP emissions in the bleaching component. The bleaching component standards also include applicability levels to identify those bleaching vents that are not required to be controlled. The rationale for choosing the format of the standards is discussed below.

a. *Applicability Levels.* For the same reasons identified for the pulping component, EPA identified certain low flow and episodic bleaching vents that are not believed to be controlled at the floor. Available data indicate that these minor bleaching component emission points can also be identified by volumetric flow rate or mass flow rate. EPA requests data and solicits comment on the types of bleaching component emission points that are not controlled within the industry, and on whether volumetric flow rate and mass flow rate are in fact good indicators of such emission points. EPA is not proposing to identify these minor emission points with a liquid phase HAP mass loading of the combined streams entering the process equipment. Chemical reactions that occur within the equipment change the characteristics of the HAPs in the equipment, making an entering mass loading limit not representative of emission potential. EPA solicits comment and requests data on whether a HAP mass loading for streams entering the process equipment would be an appropriate format.

b. *Bleaching Component Enclosures and Closed Vent Systems.* A combination of equipment and work practice standards is proposed for bleaching component enclosures and closed vent systems. These standards are proposed to ensure that all open process equipment is enclosed such that a negative pressure drop is maintained at each enclosure opening and that all emissions from process equipment within the bleaching component are transported to the control device via a closed vent system with no detectable emissions. Proper work practices are needed to ensure that the equipment will capture and convey all emissions. The proposed work practice includes periodic monitoring, inspections, and repair. An emissions standard was not a reasonable format for bleaching component closed vent systems for the same reasons discussed in Section X.G.2.b for the pulping component.

c. *Reduction of HAP in the Bleaching Component Emissions.* An emission standard is proposed for the bleaching component emission points. The proposed emission standard is a weight percent reduction, which is based on the efficiency of the MACT technology (scrubbing). A mass emission limitation was not appropriate for bleaching component emission points because variation within the industry, including capacity and processes utilized, greatly affects emission rates; and data were not available to determine the mass limitations that would address this variation.

4. Format of the Standards for the Process Wastewater Component

EPA is proposing standards for process wastewater stream emissions within the process wastewater component of this source category. To ensure that emissions are captured and conveyed to a control device, the proposed standards include requirements for:

- An enclosed process wastewater collection and treatment system;
- Treatment to reduce the HAP concentration in the process wastewater streams; and
- Conveyance of emissions vented from the process wastewater treatment device and the enclosed process wastewater collection system in a closed vent system to a control device.

Applicability levels are included in the process wastewater component standards to identify those process wastewater streams that are not required to be controlled.

a. *Applicability Levels.* As discussed in Section X.D., EPA identified certain process wastewater streams that are not currently being controlled. These include all bleaching process wastewater streams, and some pulping process wastewater streams. However, defining the specific pulping process wastewater streams that are not required to be controlled is not proposed because mills define these streams differently. In reviewing the emissions test data and the API/NCASI voluntary survey data, EPA determined that mills do not control process wastewater streams with low concentrations and flows. Therefore, EPA is proposing concentration and flow rate parameters to identify pulping process wastewater streams that do not require control. EPA solicits data on the types of pulping process wastewaters that are currently steam stripped, the flow rates of these process wastewater streams, and the annual average HAP concentration of

these process wastewater streams. EPA also solicits comment on whether it is better to name specific process wastewater streams to be controlled or to set a concentration and flow rate. EPA solicits information on defining these named process wastewater streams.

b. *Wastewater Collection and Treatment.* Two formats were considered in developing the proposed standards for enclosed process wastewater collection and treatment system equipment. These formats included a numerical emission standard and combination equipment and work practice standard.

Although considered first, it was determined that a numerical standard would not be feasible because it would be difficult to capture and measure emissions from this equipment for the purpose of evaluating compliance. Due to the number of openings and possible emission points, accurate measurement would require enclosure of the entire airspace around a piece of equipment. This approach would not be practical for numerous equipment components.

The format selected was an equipment and work practice standard. Because the intent of the standard is to capture all emissions from the process wastewater collection and treatment equipment, an equipment standard is appropriate. The standard requires the installation and proper maintenance of roofs, covers, lids, water seals, and enclosures on tanks, surface impoundments, containers, and individual drain systems. The work practices would be required to ensure proper operation and maintenance of the equipment. The proposed work practices include periodic monitoring, inspection, and repair.

The proposed standards would require that emissions from process wastewater collection and treatment system equipment be controlled from the point of generation of the process wastewater stream until: It enters the treatment device; or it reaches a controlled piece of equipment to which it is being recycled (e.g., a washer) that is subject to the standards for the pulping or bleaching components being proposed today.

c. *Reduction of HAP Concentration in the Process Wastewater Streams.* Three equivalent formats are proposed for reduction of process wastewater stream HAP concentration: a numerical format, an equipment design and operational format, and an equipment and work practice standard. Another format, a mass removal standard, is not proposed.

(1) Numerical Format. Two alternative numerical emission limitation formats are proposed to provide sources with a maximum degree of operational flexibility in complying with the standards. These emission limitation formats are: A mass percent reduction of HAP in the process wastewater stream or an effluent concentration limitation for HAP. The rationale for providing alternative emission limitations based on both a percent reduction and an effluent concentration is given below.

The percent reduction format is based on the organic HAP removal efficiency of a steam stripper; however, any treatment process that can achieve the proposed efficiency can be used to comply with the standard (e.g., biological treatment). Percent reduction was chosen because it is the best representation of control technology performance.

The effluent concentration limitations are also based on the performance of a steam stripper. Effluent concentration limitations are provided as alternatives to the percent reduction standard to allow compliance flexibility for facilities required to treat process wastewater streams having low organic HAP concentrations. Requiring a percent reduction standard alone for these process wastewater streams would not be reasonable. At very low concentrations, it is technically much more difficult and costly to achieve the same level of percent reduction.

(2) Equipment Design and Operational Format. Another regulatory format proposed for process wastewater stream treatment is an equipment design and operational format. The equipment standard consists of the installation of a steam stripper designed and operated at specified parametric levels. The specifications for the steam stripper were developed to provide a standard piece of equipment (with associated operating conditions) that can achieve either the mass percent HAP removal or the effluent concentration of HAP.

This equipment design and operational format was included to provide an alternative means of compliance that all sources would be able to use, while achieving the desired emission reduction.

(3) Equipment and Work Practice Format. A final equivalent standard proposed for controlling process wastewater emissions is an equipment and work practice standard. This format is based on the recycling of process wastewater in a closed collection system to a controlled piece of equipment. A controlled piece of equipment is defined as any unit requiring control under the proposed standards for pulping, such as a brownstock washer. When recycling is used, process wastewater emissions are controlled with equipment emissions, and the process wastewater is reused. This format is proposed to encourage chemical recovery and pollution prevention.

(4) Mass Removal. EPA is not proposing a required mass removal format as a standard for controlling emissions from process wastewaters. The Agency solicits comment on this approach, however, specifically on the HAP emission reductions that could be achieved and on whether a mass removal would be a preferable format to that of the standards proposed.

d. *Vent Collection and Vapor Recovery or Destruction Device.* HAPs are emitted from vents on process wastewater treatment devices such as steam strippers and from vents on covered process wastewater collection units such as clarifiers and junction boxes. The equipment and work practice standards for closed vent systems that are proposed for pulping component emission points are also proposed for vents on wastewater control devices. An emission standard is generally appropriate for vapor destruction devices used to control vapor streams containing HAP from transport, handling, and treatment equipment. The emission standard that is proposed for pulping component emissions is also proposed for controlling vent emissions from process wastewater control devices.

H. Selection of Numerical Values in Emission Standards

This section discusses the rationale for the selection of the standards for the pulping, bleaching, and process wastewater components of the source category. The selection of applicability levels, numerical limitations for the emission standards, and design parameters is also included.

1. Selection of Standards for the Pulping Component

The selection of applicability levels, emission limitations, and equivalent standards for the pulping component is discussed in this section.

a. *Applicability Levels.* As discussed in Section X.G., certain minor emission points within the pulping process are not required to be controlled by the proposed standards. The following applicability levels were established to identify those points that are not required to be controlled:

- Individual process emission points from enclosed process equipment that maintain either a volumetric flow rate less than 0.0050 standard cubic meters per minute (scmm), mass flow rates less than 0.230 kilograms of total HAP per

hour (Kg/hr), or mass flow rates less than 0.0010 kilograms of total HAP per megagram of air dry pulp produced (Kg HAP/Mg ADP); or

• Process equipment with the sum of all pulp and process wastewater streams entering the process equipment maintaining a HAP mass loading of less than 0.050 kilograms of total HAP per megagram of ADP. Since MACT was determined to be the floor level of control, the numerical applicability levels are set to control emission points that are controlled at the floor. EPA requests comment on whether these numerical applicability levels are appropriate for identifying pulping component emission points that are not controlled.

b. *Emission Limitations for the Pulping Component.* Two alternatives that achieve equivalent emission reduction—a percent reduction and an outlet concentration— are proposed for the pulping component emission standards. A 98 percent reduction of HAP emissions was chosen based upon the efficiency achievable by the floor level control technology of combustion in an incinerator, boiler, lime kiln, or recovery furnace. A 20-ppmv HAP outlet concentration corrected to three percent oxygen was selected as an equivalent alternative to 98-percent reduction for incinerators. The percent control is based upon an EPA analysis of thermal incinerator performance for NSPS (used to support the SOCMI distillation reaction, and air oxidation NSPS) and of incinerator performance for VOC (See BID). Because most of the HAP from pulping component and process wastewater emissions is also VOC, the reduction efficiency for total HAP was determined to be the same as that for VOC. Incinerators combusting vent streams with concentrations less than 1,000 ppmv may not be able to demonstrate 98 percent control, but can achieve outlet concentrations of HAP less than 20 ppmv corrected to three percent oxygen.

c. *Design and Equipment Standard for Combustion Devices.* The minimum temperature of 1600° F and residence time of 0.75 seconds in an incinerator are required for the equivalent equipment standard. These values are based on the results of EPA analysis of incinerator efficiencies mentioned above. The minimum temperature and residence time ensure that HAP emissions are reduced to the level achieved by the emission limit standard.

Analyses also showed that when vent streams are: Introduced with the primary fuel to boilers, lime kilns, recovery furnaces; or introduced into the flame zone of such devices, over 98 percent reduction is achieved due to the high temperatures and residence times typical of such combustion devices. For this reason, an equivalent equipment and design standard is to route all emission gas streams with the primary fuel or into the flame zone of combustion devices.

d. *Equipment Standard for Enclosures and Closed Vent Systems.* All HAP emissions from pulping component emission points subject to control must be captured and transported in a closed vent system with no detectable leaks. These standards are proposed to ensure that all open process equipment is enclosed such that a negative pressure drop is maintained at each enclosure opening, and that all emissions from process equipment within the pulping component are transported to the control device via enclosed piping and duct work with no detectable leaks. No detectable leaks are determined by a portable hydrocarbon detector reading of less than 500 parts per million above background. Specifications for by-pass lines are also included to ensure that emission point gas streams are not diverted to the atmosphere.

2. Selection of Standards for the Bleaching Component

The selection of applicability levels, emission limits, and alternative standards for the bleaching component is discussed in this section.

a. *Applicability Levels.* As discussed in Section X.G., certain minor emission points within the bleaching component are not intended to be controlled by the proposed standards. The following applicability levels were established to identify those individual process emission points that are not required to be controlled—emission points maintaining either:

• Volumetric flow rate less than 0.0050 scmm;

• Mass flow rate less than 0.230 kilograms of total HAP per hour; or

• Mass flow rate less than 0.0010 kilograms of total HAP per megagram of air dry pulp produced. Since MACT was determined to be the floor level control, the numerical applicability levels are set to control emission points that are controlled at the floor. EPA requests comment on whether these numerical applicability levels are appropriate for identifying bleaching component emission points that are not controlled.

b. *Numerical Limitation.* A 99 percent reduction of the total HAP mass in the vent stream was chosen based upon the efficiency achievable by the floor level control technology, which is scrubbing. The efficiency was selected based upon data from NCASI Bulletin 616. According to the report, the best performing scrubbers are designed with a control efficiency of 99 percent for chlorine and chlorine dioxide. Engineering equations and models were used to determine the efficiency for other HAP compounds, including hydrochloric acid and methanol. Using scrubber design specifications, scrubber efficiencies for these compounds, which comprise the majority of total HAP emissions from the bleach plant, were estimated to be 99 percent. EPA requests comment on the removal efficiency of scrubbers—specifically for methanol, chloroform, chlorine, and any additional HAP compounds.

c. *Enclosures and Closed Vent Systems Standards.* Bleaching emission points subject to control are required to meet the same enclosure and closed vent system standards that are applicable for the pulping component.

3. Standards for the Process Wastewater Component

a. *Applicability Levels.* As discussed in Section X.G., EPA set applicability levels to identify those pulping process wastewater streams that are not controlled at the floor, and therefore would not be required to be controlled by today's proposed standards. As discussed in Section X.G., no bleaching process wastewater streams are required to be controlled. According to available data, pulping process wastewater streams that are steam stripped typically have an annual average concentration of at least 500 ppmw HAP or a flow rate of at least 1 ℓpm. Therefore, the process wastewater component of the floor is limited to the application of steam stripping for pulping process wastewater streams with either HAP concentrations greater than or equal to 500 ppmw or flow rates greater than or equal to 1 ℓpm. EPA's intent in establishing the 500 ppmw HAP and 1 ℓpm levels is to differentiate between process wastewater streams that are currently being controlled at the MACT floor and those that are not. During the development of today's proposal, EPA considered selecting 100 ppmw HAP as the threshold to differentiate between process wastewater streams that are controlled at the MACT floor and those that are not. The pulp and paper industry commented that 100 ppmw HAP and 1 ℓpm flow rate may require more process wastewater streams to be controlled than are currently controlled at the best sources. Upon further analysis of the process wastewater stream data presented in the BID, as well as information submitted by the industry, EPA determined that 500 ppmw is an appropriate threshold for

identifying the floor. The industry has undertaken a program to collect additional process wastewater stream concentration data that may be useful in adjusting this concentration threshold, if necessary, for the final rule. EPA solicits comments and data on whether the 500 ppmw HAP concentration and 1 ℓpm flow rate identify those process wastewater streams not currently being controlled.

b. Process Wastewater Collection System. As discussed previously, effective control of process wastewater emissions requires control from the point of generation until treated to comply with the treatment standard, or until recycled to a controlled piece of equipment that is in compliance with the pulping process component standards (e.g., a washer). Today's proposed standards require that emissions be controlled during process wastewater collection and transport in piping or individual drain systems, and during handling and treatment in wastewater tanks, containers, surface impoundments, and treatment devices by using covers, lids, water seals, roofs, and enclosures designed to reduce emissions. Proper work practices, including periodic monitoring, inspection, and repair, are also required to ensure that the equipment will control emissions. Emissions from these process wastewater collection, transport, and handling systems are believed to be significant, thereby requiring the use of controls to effectively reduce air emissions. However, emissions are typically greatest from turbulent handling of process wastewater. In quiescent basins such as the clarifiers used at pulp and paper facilities upstream from biological treatment, emissions are much less significant. For this reason, EPA requests comments on the need to cover these quiescent process wastewater storage units.

c. Process Wastewater Treatment. Today's proposed regulation provides three equivalent formats for demonstrating compliance with the process wastewater treatment standards—two emission limitations and an equipment and design specification, as discussed in Section X.G.4. The first emission limitation is a 90 percent removal of HAP from the process wastewater. The 90 percent removal is based on the removal efficiency of the floor level control technology, which is a steam stripper using 0.18 kilopascals (kPa) of steam per liter of process wastewater treated. However, the 90 percent removal may be achieved through other control technologies. For example, another way to achieve the 90 percent removal is through biological treatment.

A second emission limitation that is provided as an equivalent format for demonstrating compliance with the process wastewater treatment standard is a total HAP concentration limit of 500 ppmw. This limitation is provided to allow additional flexibility for the owner in demonstrating compliance with the process wastewater treatment standard. In addition, because process wastewater streams less than 500 ppmw were determined to have a floor of no control, treatment of process wastewater streams to a concentration of less than 500 ppmw generates a process wastewater stream that would require no additional control from the point at which it exits the steam stripper.

As stated previously, the 90 percent removal is based on the average removal efficiency of those steam strippers using at least 0.18 kPa of steam per liter of process wastewater feed. EPA requests comment on the efficiency of these steam strippers for removing total HAP, and methanol specifically.

An equipment and design standard based on the use of a steam stripper is proposed as a third equivalent format for demonstrating compliance with the process wastewater treatment standard. If the owner or operator installs and operates a steam stripper in compliance with the following requirements, an equivalent emission reduction to that provided with the numerical emission limits is achieved. These design and operating parameters include:

- Counter current flow configuration with a minimum of 8 theoretical trays in the stripping section of the column,
- A minimum steam flow rate of 0.18 kPa of steam per liter of process wastewater feed with steam of at least 149 degrees Centigrade and 276 kilograms gauge pressure,
- Minimum process wastewater column feed temperature of 96 degrees Centigrade, and
- Maximum liquid loading of 44,600 liters per hour per square meter.

d. Vent Collection of Vapor Recovery or Destruction. HAPs are emitted from vents on enclosed or covered process wastewater collection and treatment system devices such as individual drain systems and steam strippers. These emissions are required to be vented through a closed vent system meeting the same requirements as those proposed for the pulping component emission points. The closed vent system must route these vapors to a vapor recovery or destruction device achieving at least a 98 percent destruction or recovery. This limitation is based on the efficiency of a combustion device, as discussed previously.

Because biological treatment units destroy the HAP in the process wastewater, a well-operated biological treatment unit is not required to be covered and vented to vapor recovery and destruction. Instead, today's proposed regulation requires an owner or operator electing to use a biological treatment unit to meet the 90 percent removal requirement by demonstrating that 90 percent of the HAP entering the biological treatment unit is being destroyed and not emitted.

I. Selection of Continuous Monitoring Requirements

Section 114(a)(3) of the CAA requires enhanced monitoring of control devices by all major stationary sources. Section 70.6 of the promulgated operating permit rule (57 FR 32250) requires the submission of "compliance certifications" to ensure continuous compliance from sources subject to the operating permit rule. In light of these requirements, EPA has considered how sources subject to this NESHAP would demonstrate continuous compliance with standards for the pulping, bleaching, and process wastewater components of the regulation.

EPA considered three monitoring options: The use of continuous emission monitors (CEMs) to measure total HAP, the use of CEMs for surrogate compounds such as methanol, chlorine, VOC, or total hydrocarbons (THCs) as surrogate for total HAP, or the continuous monitoring of control device operating parameters.

The first two options were determined to be unreasonable for this industry. Continuous emission monitors for total HAP are currently not available and it is technically not possible to monitor each individual HAP. It may be technically feasible to monitor VOC or THCs as a surrogate for total HAP through the use of a flame ionization analyzer (FIA). However, the FIA does not speciate compounds. At the outlet of a combustion device, it will measure the ionization potential of the uncombusted fuel and products of incomplete combustion in addition to the uncombusted components of the gas stream, thus biasing monitoring results. Additionally, FIAs do not respond equally to all VOC or HAPs, and a correlation of VOC or THC to HAP compounds present in pulp and bleach vent streams has not been established. Because an FIA or similar device would be an extra burden on the industry without increasing the accuracy of compliance demonstrations, this option was determined to be unreasonable.

The continuous monitoring of control device operating parameters, established during the performance test or specified through design, is used to determine whether continuous compliance is achieved. Failure to maintain the established values for these parameters would be an enforceable violation of the emission limits of today's proposed standards. Some of the process parameters are already monitored as part of normal operation. Therefore, continuous compliance is assured without imposing an additional, unnecessary burden on the facility. The specific parameters that need to be monitored for each component are discussed below.

1. Pulping Process Continuous Monitoring Requirements

In the proposed rule, owners or operators are required to enclose and vent emissions from the pulping process component into a closed vent system and control those emissions as specified in the regulation.

a. Enclosure and Closed Vent System Monitoring Requirements. The proposed rule establishes requirements to ensure that negative pressure is maintained on enclosures and that emissions are routed through a closed vent system with no detectable leaks. If the closed vent system contains bypass lines, the proposed standards require the owner or operator to ensure emissions are not bypassing the control device.

An initial performance test must be conducted to ensure that negative pressure is maintained on all openings of each enclosure and a monthly inspection must be performed to confirm that any enclosure openings that were closed during the performance test remain closed.

To ensure continuous compliance with the requirement of no detectable leaks from the enclosure and closed vent system, monitoring with a portable hydrocarbon detector is required to be performed initially and annually, along with a program of monthly visible inspections of the ductwork, piping, and connections to covers for evidence of visible defects. If visible defects in the closed vent system are observed, readings greater than 500 ppmv above background are measured, or enclosure openings do not have negative pressure, a first effort to repair the closed vent system must be made as soon as practicable and no later than 5 calendar days. The repair must be completed no later than 15 calendar days after identification.

To ensure the control device is not being bypassed if bypass lines are present, owners or operators must install, calibrate, maintain, and operate according to manufacturer's instructions a flow indicator that provides a record of emission point gas stream flow at least once every 15 minutes. As an alternative, the proposed rule allows bypass lines to be sealed in the closed position and visually inspected every month to ensure they are being maintained in the closed position. The use of flow indicators or seals on the bypass lines ensures that process vent streams are continuously being routed to the control device.

b. Control Device Monitoring Requirements. Owners or operators can demonstrate compliance with the requirements for pulping component emission points either by conducting an initial performance test to establish parameters that achieve 98 percent destruction or by meeting the design requirements. Owners or operators using an incinerator to comply with the pulping component requirements are required to install, calibrate, operate, and maintain according to manufacturers' instructions a temperature monitoring device measuring firebox temperature, and equipped with a continuous recorder. The continuous monitoring of temperature within the firebox ensures compliance with the required percent emission reduction or outlet concentration by measuring that the combustion temperature is sufficient to ensure good combustion of HAPs. Firebox temperature is typically monitored within the pulp and paper industry to ensure proper operation of the incinerator.

The continuous temperature monitoring requirement described above does not apply to vent streams introduced into recovery furnace with the primary fuel or into the flame zone. These devices operate at temperatures and residence times that EPA has concluded will ensure compliance with the emission limits (at least 98 percent reduction of total HAP). Therefore, if the vent stream is routed to the devices as described above and enters at the specified locations, continuous compliance is demonstrated.

The proposed rule requires continuous compliance and does not account for downtime associated with existing combustion devices such as the lime kiln and recovery furnace. Pulp mills are assumed to operate and vent emissions to these existing devices during pulping process operations, or vent emissions to a stand-alone incinerator. EPA requests comments concerning continuous compliance associated with utilizing existing combustion devices, such as data on downtimes and frequencies while pulping operations continue, capacity utilization, retrofit information, and current back-up operations.

2. Bleaching Process Continuous Monitoring Requirements

The owner or operator is required in the proposed rule to enclose and vent emissions from the bleaching component into a closed vent system and control those emissions as specified in the regulation.

a. Enclosure and Closed Vent System Monitoring Requirements. Monitoring requirements for bleaching component closed vent systems are the same as those described in Section X.I.1.a for the pulping process component.

b. Control Device Monitoring Requirements. Owners or operators using a gas scrubber to comply with the emission limits specified for the bleaching area are required to install, calibrate, operate, and maintain according to manufacturers' specifications continuous monitors with continuous recorders of:

- The pH of the gas scrubber effluent,
- The flow of the gas scrubber vent gas inlet, and
- The gas scrubber liquid influent flow rate. Monitoring the pH ensures sufficient excess caustic needed for total HAP removal. Monitoring the gas stream and liquid stream flows ensures the proper liquid-to-gas ratio needed for total HAP removal. All of these parameters are set during the initial performance test that demonstrates required total HAP reduction. Liquid and gas flow rates, as well as pH, are typically monitored under current industry practices to ensure continuous proper scrubber operation; therefore continuous compliance of the gas scrubber with the required control levels can be ensured without imposing additional burden. The Agency requests comment and data on the use of a design scrubber, specifically on the parameters that would ensure 90 percent reduction to allow facilities to avoid compliance testing, including flow rate and pH.

3. Process Wastewater Continuous Monitoring Requirements

The proposed standards include requirements for continuous monitoring to ensure that owners suppress and capture emissions from the process wastewater collection system, treat the process wastewater to reduce the HAP concentration, and convey emissions from the process wastewater collection and treatment to a control device as specified in the regulation.

a. Process Wastewater Collection. The standards require monitoring to ensure that the process wastewater collection system equipment—including tanks, surface impoundments, containers, and drain systems—is operated with no detectable leaks. The standards require owners or operators to demonstrate initially and annually that the system has no detectable leaks according to the procedures for pulping component enclosure and closed vent systems, as discussed in Section X.I.1.a. The standards also include a requirement for weekly inspection of the process wastewater collection system to detect and repair any leaks in the system.

b. Process Wastewater Treatment. The proposed regulation requires each owner or operator using a steam stripper to comply with the emission limit or design and equipment standards specified for process wastewaters to install, calibrate, operate, and maintain according to manufacturers' specifications continuous monitors with continuous recorders of:

- The mass rate of process wastewater fed to the stripper,
- The mass rate of steam fed to the stripper, and
- The process wastewater column feed temperature. These parameters are either established during an initial performance test or according to design specification in the regulation. They are typically monitored in the industry to ensure proper operation; therefore ensuring continuous compliance of a steam stripper with the specified requirements for HAP removal requires no additional monitoring burden.

Owners or operators using a biological treatment unit to achieve a 90 percent total HAP reduction across the unit are required to monthly measure the methanol or HAP concentration in the influent and effluent, and identify appropriate parameters to be monitored to ensure continuous compliance. These parameters must be determined during the initial performance test as demonstrated to the Administrator's satisfaction, and monitored accordingly. The NCASI is collecting information on the effectiveness of biological treatment units and monitoring techniques. One potential method they have suggested is the monitoring of inlet and outlet soluble BOD. EPA requests comments on applicable monitoring parameters for biological treatment units and supporting data on biorates and corresponding parameters for monitoring.

c. Enclosure and Closed Vent System Monitoring Requirements. Enclosure and closed vent system and vapor control monitoring requirements for combustion of the vent streams from process wastewater collection and treatment are identical to those discussed for the pulping process component monitoring requirements.

J. Selection of Reporting and Recordkeeping Requirements

Under Section 114(a) of the CAA, the Administrator may require any owner or operator of an affected source to establish and maintain records; make reports; use and maintain monitoring equipment; use such audit procedures, or methods; and provide such other information as EPA may reasonably require. The general requirements for all affected sources are presented in the proposed NESHAP General Provisions in 40 CFR part 63, subpart A (58 FR 42760; August 11, 1993) hereafter referred to as the proposed General Provisions).

The proposed rule would specifically require sources to submit the following five types of reports:

- Initial Notification,
- Notification of Performance Tests,
- Notification of Compliance Status,
- Exceedance Reports, and
- Quarterly Summary Reports.

These reporting requirements are consistent with the proposed General Provisions. The purpose and contents of each of these reports are described in this section, and differences between today's proposed standards and the proposed General Provisions are noted. Reports are to be submitted to the Administrator of EPA, an EPA regional office, a State agency, or other authority that has been delegated the authority to implement this rule. In most cases, reports will be sent to State agencies. Addresses are provided in the proposed General Provisions.

The exceedance and summary reports are not required for emission points that are not required to be controlled under the standards for the pulping, bleaching, and process wastewater components.

Records of reported information and other information necessary to document compliance with the regulation are generally required by the proposed General Provisions to be kept for five years. A few records pertaining to equipment design would be kept for the life of the equipment.

1. Initial Notification

The proposed rule would require owners or operators who are subject to the standards to submit an Initial Notification. This report will establish an early dialog between the source and the regulatory agency, allowing both to plan for compliance activities. The notice is due 45 days after the date of promulgation for existing sources. For new sources, it is due 180 days before commencement of construction or reconstruction, or 45 days after promulgation of today's proposed standards, whichever is later.

The notification must include the owner or operator's name and address, the source's location, a brief description of the processes at the source that are subject to the proposed standards, and which provisions may apply (e.g., pulping, bleaching, and/or wastewater component). A description of the source's compliance strategy, including a detailed identification of emission points, must be included in the Initial Notification. The Initial Notification must also include a statement of whether the source can achieve compliance by the specified compliance date. If a particular source anticipates a delay that is beyond its control, it will be important for the owner or operator to discuss the problem with the regulatory authority as early as possible. Pursuant to Section 112(d) of the CAA, the proposed rule has provisions for 1-year compliance extensions to be granted on a case-by-case basis.

2. Notification of Performance Tests

The Notification of Performance Tests informs EPA of the owner or operator's intention to conduct performance tests of control equipment and performance evaluations of continuous monitoring systems. The notification must be submitted at least 75 calendar days before the performance tests are scheduled to begin to allow EPA to review and approve the site-specific test plans and to have an observer present during the tests.

3. Notification of Compliance Status

The Notification of Compliance Status must be submitted by registered letter before the close of business on the 45th day following the completion of the relevant performance tests or other compliance demonstration activities. The notification contains the information necessary to demonstrate that compliance has been achieved, such as the methods used, control device performance test results, and continuous monitoring system performance evaluations. The methods that will be used to determine continuing compliance are also included in the notification, such as descriptions of the monitoring and reporting requirements and test methods.

Another type of information to be included in the Notification of Compliance Status is the specific range for each monitored parameter for each

emission point, and the rationale for why this range demonstrates continuous compliance with the emission limit. As an example, for an emission point controlled by the incinerator, the notification would include the site-specific minimum firebox temperature that will ensure 98 percent emission reduction by the incinerator, and the data and rationale to support this minimum temperature.

4. Exceedance Reports

Exceedance Reports are required for any quarter where an exceedance of a monitored parameter is noted. This would include reporting when a process parameter does not meet compliance levels established in the compliance report, as well as any other operating procedures outlined in the standards that are not followed, including the monthly inspections of the closed vent system or enclosed wastewater system. These reports must contain the following information: The date and time of the monitoring parameter exceedances; the nature of any malfunction, start-up, or shut-down not completely consistent with the submitted plan and an explanation why; any corrective action taken; the total process operating time during the reporting period; and information concerning times when the continuous monitoring system is not operating properly. If an Exceedance Report is required, the summary report for that quarter must contain the Exceedance Report. A separate Exceedance Report is not required.

5. Quarterly Summary Reports

A quarterly Summary Report shall be submitted for each affected source. The report contains the following information: (1) The company name and address; (2) an identification of each HAP monitored at the affected source; (3) the beginning and ending dates of the reporting period; (4) a brief description of the process units; (5) the emission and operating parameter limitations specified in the standards; (6) the monitoring equipment manufacturer(s) and model number(s); (7) the date of the latest continuous monitoring system certification or audit; (8) the total operating time of the affected source during the reporting period; (9) a summary of excess emissions; (10) continuous monitoring system performance summary; (11) a description of any changes in processes, controls, or monitoring systems; and (12) the name, title, and signature of the responsible official certifying the accuracy of the report. The quarterly Summary Report will contain the quarterly Exceedance Report if an Exceedance Report is required, and a separate Exceedance Report will not be submitted. This report is consistent with the General Provisions.

6. Recordkeeping Requirements

The proposed rule requires sources to keep readily accessible records of monitored parameters. For those control devices that must be monitored continuously, records that include at least one monitored value for every 15 minutes of operation are considered sufficient. These monitoring records must be maintained for five years.

The proposed General Provisions require the submittal of a start-up, shut-down, and malfunction plan. Anytime an owner or operator is not consistent with the plan, accessible records explaining why must be kept.

K. Selection of Test Methods and Procedures

Test methods and procedures are required to ensure compliance with the standards proposed for the pulping, bleaching, and process wastewater components. These proposed standards include requirements for demonstrating that an emission point or process wastewater stream does not require control or that it is in compliance with the control requirements. Requirements to test for no detectable leaks from control devices, enclosure and closed vent systems, and process wastewater collection and treatment systems are also included.

1. Pulping Component

The proposed pulping component standards require the use of approved test methods and procedures to ensure consistent and verifiable results for demonstrating that a pulping component emission point does not require control, or for demonstrating that the allowed emission levels are achieved when controls are applied. Because the majority of all HAP emissions from the pulping component are methanol, the owner or operator has the option of measuring methanol concentration and methanol emissions as a surrogate for total HAP.

As described in Section X.H., all pulping component emission points (other than deckers and screens at existing sources) must be controlled for HAP emissions under today's proposed standards unless the owner or operator demonstrates that one of the following conditions exists:

- The vent is from an enclosed process, and has a gas flow rate less than 0.0050 scmm;
- The vent is from an enclosed process, and has a vent stream emission rate less than 0.230 Kg total HAP/hr;
- The vent is from an enclosed process, and has vent stream emissions less than 0.0010 Kg total HAP/Mg ADP; or
- The sum of all streams entering the piece of process equipment have a total liquid phase mass loading of 0.050 Kg HAP/Mg ADP.

Vent stream flow rates are measured directly using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A. Methods 3 and 4 of 40 CFR part 60, appendix A, are used to determine the oxygen and carbon dioxide concentrations and the moisture content in the vent stream, respectively. Another option for demonstrating process vent flow rate is to use engineering assessment, such as previous test data, bench/pilot-scale data, or a design analysis based on accepted chemical engineering principles. The alternatives allow sources to make use of existing information on flow that can be documented in an engineering assessment. The engineering assessment must include documentation of methodology and assumptions so that it can be reviewed by the enforcement agency. The decision not to require testing where sufficient information is available to demonstrate flow will reduce the testing cost and burden for industry.

If sufficient information is available, owners or operators may also use an engineer's assessment for determining the HAP mass emission rate in either kilograms per hour or kilograms per megagram of ADP pulp. If engineering assessment is not used, the owner or operator may measure methanol concentration (as a surrogate for total HAP) in the vent stream using proposed Method 308 of 40 CFR part 63, appendix A. The minimum sampling time for each of the three runs per method is one hour. Because no one method can be used to measure all HAPs, and the major contributors to total HAP emissions have specific methods, a method for measuring total HAP concentrations is not being proposed. At this time, there are no validated test methods or procedures for total HAP measurement. The regulation allows the use of methanol to demonstrate compliance with the standards. It is anticipated that most sources subject to the standard may opt to measure methanol instead of total HAP. EPA solicits comments on whether a method for total HAP is applicable, and if one is necessary.

The owner or operator may determine the liquid-phase HAP concentration (or the methanol concentration as a

surrogate for total HAP) in each stream entering a piece of process equipment using knowledge of the process streams, bench scale or pilot scale test data, or physical measurements of methanol concentration. Again, the three methods have been provided to allow less expensive alternatives than actual measurement if the appropriate information is available. For physical measurement of total HAP or methanol concentration in a process liquid stream, Method 305 (corrected for the fraction of HAP or methanol measured by the method) shall be used.

In addition to the methods described above, the proposed standards also allow the use of any test method or test results validated according to the protocol in Method 301 of 40 CFR part 63, appendix A.

Initial performance tests are required in the proposed regulation for all pulping component control devices other than those meeting the equipment standards described in Section X.H.1.

Initial performance tests are required for all other pulping component control devices to: demonstrate that a control device can achieve the required control level; and establish operating parameters that ensure continuous compliance. Flow and concentration measurements are needed to demonstrate compliance with the pulping component provisions of 98 percent HAP reduction or an outlet concentration of 20 ppmv for combustion devices. Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A may be used to measure vent stream volumetric flow. Method 3 and Method 4 of the 40 CFR part 60, appendix A may be used to determine the oxygen and carbon dioxide concentrations, and the moisture content of the vent system, respectively. Proposed Method 308 of 40 CFR part 63, appendix A can be used to measure the methanol concentration. Three runs with a minimum sampling time of one hour each must be conducted for each method utilized. As an alternative to these methods, any test method or test results validated according to the protocol in Method 301 of 40 CFR part 63, Appendix A can be used. The proposed regulation contains equations for calculating percent reduction from the flow and concentration measurements. Procedures for correcting the outlet concentration from combustion devices to three percent oxygen are also included in the proposed standards.

The proposed standards require the use of Method 21 of 40 CFR part 60, appendix A to test for no detectable leaks in an enclosure and closed vent system equipment. Method 21 incorporates the use of a portable hydrocarbon detector to measure the concentration of VOC. Method 21 is used to test compliance in several standards in 40 CFR parts 60, 61, and 63, and represents the best available method for detecting leaks from these sources. The organic compounds measured by the hydrocarbon detector are not necessarily HAP. However, if organic compounds are contained in the enclosure and closed vent system equipment being tested, Method 21 is the best procedure available for providing an indication of leaks in the system.

The standards require that an initial performance test be conducted to demonstrate that negative pressure exists at the openings on enclosures over process equipment. The standard allows the use of the following to demonstrate negative pressure:

- An anemometer,
- visual inspection to indicate negative pressure,
- A differential pressure monitor, or
- Calculation of average face velocity.

2. Bleaching Component

The proposed bleaching component standards require the use of approved test methods and procedures to ensure consistent and verifiable results for demonstration that a bleaching component emission point does not require control, or for demonstration that the allowed emission levels are achieved when controls are applied. For all bleaching component requirements, the owner or operator has the option of measuring methanol and chlorine concentration and emissions as a surrogate for total HAP.

As described in Section X.H., all bleaching component emission points must control HAP emissions under today's proposed standards, unless the owner or operator demonstrates that the emission point is from an enclosed process, and has:

- A gas flow rate less than 0.0050 scmm; or
- A vent stream emission rate less than 0.230 Kg of total HAP/hr; or
- A vent stream emission rate less than 0.0010 Kg of total HAP/Mg air dried pulp. The owner or operator may use the methods described in Section X.K.1 for determining the vent stream flow rate and HAP emission rates.

For determining the HAP mass emission rate, the owner or operator may determine the total HAP mass emissions or the methanol and chlorine mass emissions. Methanol mass emissions can be determined using the methods described earlier in Section X.K.1. The chlorine mass emissions may be determined using Method 26A of 40 CFR part 60, appendix A or any other test method or data that has been validated according to the protocols in Method 301 of 40 CFR part 63, appendix A. There must be three runs for each method. The minimum sampling time for each of the three runs is one hour.

Performance tests are required for bleaching component control devices to: Demonstrate that a control device can achieve the required control level and help establish operating parameters that ensure continuous compliance. To demonstrate compliance with the bleaching component requirements of 99 percent reduction of total HAP mass in the vent streams, Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A may be used to measure vent stream volumetric flow. Method 3 and Method 4 of 40 CFR part 60, appendix A may be used to determine the oxygen and carbon dioxide concentrations, and the moisture content of the vent system, respectively. The method for determining methanol and chlorine concentrations is as described earlier in Section X.K.1.

The proposed standards require the use of Method 21 of 40 CFR part 60, appendix A to test for no detectable leaks in closed vent system equipment. The standards require that an initial performance test be conducted to demonstrate that negative pressure exists at the process equipment enclosure openings. The methods for demonstrating negative pressure are the same as those for the pulping component, which are described in Section X.K.1 and earlier in this section, respectively.

3. Process Wastewater Component

The proposed process wastewater component standards require the use of approved test methods and procedures to ensure consistent and verifiable results for demonstration that a process wastewater component stream does not require control, or for demonstration that the allowed emission levels are achieved when controls are applied. As for the pulping component emission points, the owner or operator has the option of measuring methanol concentrations and mass as a surrogate for total HAP.

As described in Section X.H., all process wastewater component streams from the pulping process must be controlled for HAP emissions per the requirements in today's proposed standards, unless the owner or operator demonstrates that one of the following conditions exist: the annual average process wastewater stream flow rate is less than 1.0 ℓpm; or the annual average

HAP concentration is less than 500 ppmw. Process wastewaters from the bleaching process are not required to be controlled by these proposed standards.

Several methods can be used to determine the annual average process wastewater stream flow rate. The owner or operator may estimate process wastewater flow rate using the maximum annual production capacity of the process equipment, knowledge of the process and mass balance. The owner or operator may also use measurements that are representative of average process wastewater generation rates. A third option is to select the highest flow rate of process wastewater from historical records. Knowledge-based methods are allowed to provide flexibility and to allow the use of less expensive alternatives than actual measurement if the appropriate information is available.

For quantifying the annual average HAP concentration of the process wastewater streams, three methods are available:

- Knowledge of the process wastewater streams,
- Bench scale or pilot scale test data, or
- Physical measurement. Again, the three methods have been allowed to provide flexibility. Because available data indicate that the majority of total HAP emissions are methanol, the methanol concentration is allowed as a surrogate for total HAP concentration.

If the actual concentration of methanol is measured, the proposed regulation requires that the sample be collected from the point of generation of the individual process wastewater stream, or if not feasible to be collected at the point of generation, to be corrected to the point-of-generation value. The sample is required to be collected using the sampling procedures specified in Method 305 of 40 CFR part 60, Appendix A, to prevent losses of methanol during sample collection. The sample may be analyzed using Method 305 or any test method or test data that has been validated according to the protocols in Method 301.

Initial performance tests are required for all treatment devices used to reduce the HAP concentrations in process wastewater streams with the exception of the design steam stripper. Installation of the specified equipment and operation at the specified parameter levels will achieve the required reduction in HAP concentrations.

The proposed rule includes treatment process performance test procedures for the effluent concentration and percent reduction. These test procedures involve direct measurements of methanol concentrations (as a surrogate for HAP concentration) in process wastewater and flow rate. The methods for these measurements are the same as the direct measurement methods used to determine streams that are not required to be controlled.

If an owner or operator elects to treat a process wastewater stream in a biological treatment unit, the owner or operator may use Method 304 to determine site-specific biodegradation rate constants for methanol, in conjunction with modelling using WATER7 (or another approved model), to predict the HAP reduction achieved in a biological treatment unit.

All process wastewater collection and treatment systems and associated closed vent systems used to control emissions from them are required to be evaluated for no detectable leaks using Method 21 of 40 CFR part 60, appendix A. Vent stream control device performance tests for vents from the process wastewater collection and treatment system use the same methods as for pulping component emission points.

L. Modifications, Reconstruction and New Additions

Section 112 of the CAA, as amended in 1990, requires that many physical and operational changes at existing major sources meet MACT control requirements. Examples of these changes include modifications, reconstructions, and the addition of new equipment. EPA is engaged in several rulemakings that will more precisely define these requirements. Two of these are a rule to implement section 112(g) of the Act, and a rule known as the "General Provisions," which will set generic requirements for sources covered by any MACT standard. These two rules will determine the generic administrative and control-level requirements that apply to changes at all major sources, including pulp and paper mills.

EPA published the proposed NESHAP General Provisions for comment in the **Federal Register** on August 11, 1993 (58 FR 42760). EPA plans in the near future to publish and invite comment on a proposed rule to implement section 112(g). Section 112(g) requires MACT determinations for modification, reconstruction or construction of a major source of HAPs. These determinations are to be made on a case-by-case (facility specific) basis when EPA has not yet promulgated a NESHAP under section 112(d).

In today's pulp and paper rule, EPA is not attempting to resolve program-wide issues such as the interrelationship between sections 112(g) and 112(d), the control levels required by statute for different types of changes, or generic preconstruction review requirements. EPA encourages those interested in these issues to submit comments on the proposed rule to implement section 112(g) (A discussion of the relationship between sections 112(g), 112(d) and 112(j) is included in the **Federal Register** notice proposing a rule to implement section 112(j) of the Act. 58 FR 37778 (July 13, 1993). Section 112(j) establishes requirements for case-by-case regulation of major sources in the event EPA lags more than 18 months behind schedule in issuing a NESHAP for an industry).

Pulp and paper industry representatives have voiced concerns about the influence that today's proposed NESHAP could have on control requirements under § 112(d) applicable to changes to an existing mill. In today's proposed rule, EPA is recommending a broad definition of "source" to comprise all pulping, bleaching and process wastewater operations at a mill. This broad source definition alleviates concerns that a small change to an existing mill would trigger new source requirements under the NESHAP itself.

Industry representatives have voiced an additional concern that involves case-by-case MACT determinations required under CAA § 112(g) for changes to an existing mill. Specifically, their concern is that once a State permit system is effective, States will use today's proposed rule as the basis of case-by-case MACT requirements for mills that make modifications or construct a new unit that by itself could be considered a major source. Industry representatives consider this to be a problem because they believe that the NESHAP standards proposed today are too stringent, and that additional data they are collecting will confirm this view. EPA applauds the industry's efforts to collect additional data and is hopeful that such data will be useful in refining the rule prior to promulgation. However, EPA believes currently available data provides a strong basis for today's proposed rule. The NESHAP proposed today are based on the statutory minimum (referred to as the floor) level of control, based on current control practices in the industry.

In view of the industry's concern about case-by-case MACT determinations, EPA wishes to emphasize the following points. In making case-by-case MACT determinations for pulp and paper mills under section 112(g), permitting authorities should take into account available information. This information

would include today's proposed rule and proposed MACT floor determination, supporting information, and information submitted to the permitting authority during the public comment period on a permit. EPA urges permitting authorities to weigh carefully the information provided by all parties commenting on a proposed case-by-case MACT determination, including any new information submitted by industry that might influence required levels of control at a mill. At the same time, permitting authorities must consider whether a statutory minimum (or floor) level of control exists and, if so, ensure that case-by-case MACT requirements are no less stringent.

M. Emissions Averaging

During the development of today's proposal, EPA considered including an emissions averaging approach. EPA did not include an emissions averaging approach because of data limitations and uncertainties regarding how emissions averaging would be applied to the pulp and paper industry. EPA would be interested in pursuing the development of an averaging alternative if such alternative would be protective of the environment and, as expected, lower the cost of achieving any particular emission reduction. A possible benefit of an averaging approach is that it may provide sources greater flexibility in achieving emissions reductions that may also translate into cost savings for the source. EPA is interested in receiving data and comments that could be used to develop an emissions averaging alternative in the final rule.

As discussed in Section X.C, EPA is defining the MACT "source" broadly to include all pulping process areas, bleaching process areas, and pulping and bleaching process wastewater streams as a whole. As explained in Section X.C, EPA could have defined the source more narrowly as either an individual emission point or as a process area. If EPA had defined the source based on process area, there would be three types of sources: pulping area source, bleaching area source, and wastewater source. Although EPA chose to define the source broadly, the MACT floor was determined based upon control technologies in use at individual emission points across the industry.

To facilitate emissions averaging, an alternative way to establish the MACT floor would be to identify a mass emission limit or a mass emission reduction percentage across the source as a whole. For the broad source definition in today's proposal, this would mean identifying the floor based upon a mass emission limit or a mass emission reduction percentage achieved at the best performing 12 percent of the process areas as a whole. For the more narrow definition of source by process area, this would mean identifying the floor based upon a mass emission limit or a mass emission reduction percentage at the best performing 12 percent of the process areas (e.g., the best performing 12 percent of the pulping area sources). However, EPA does not consider data currently available as sufficient to establish either a mass emission limit or a mass emission reduction percentage. In part as a result, EPA elected to establish the MACT floor on an emission point basis according to control technologies currently in use in the industry at individual emission points and knowledge of the performance capabilities of these control technologies.

EPA also considered whether the day-to-day variability of the pulp and paper processes would preclude establishing either a mass emission limit or a mass emission reduction percentage and whether an emissions averaging approach could be implemented for this industry given the potential process variability. Process variabilities that could affect air emissions include swings in production depending on wood species available and products being produced, as well as other variables associated with using a natural feedstock such as wood.

EPA solicits comments on the feasibility of emissions averaging in the pulp and paper industry and requests information and data that would be necessary to support development and implementation of an averaging approach. Details on specific comments and data requested are presented in Section XIII, "Solicitation of Comments."

For more information on emissions averaging, refer to the proposed National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) at 57 *FR* 62608. The final rule for the SOCMI, known as the hazardous organic NESHAP (HON), is currently being developed. In the interim since the HON proposal, EPA published a supplemental notice at 58 *FR* 53478 announcing reopening of the public comment period on an array of issues.

N. Relationship to Operating Permit Program

Under title V of the CAA, all HAP-emitting sources will be required to obtain an operating permit. Often, emission limits, monitoring, and reporting and recordkeeping requirements are scattered among numerous provisions of State Implementation Plans (SIPs) or Federal regulations. As discussed in the rule establishing the operating permit program published on July 21, 1992 (57 FR 32251), the operating permit program will include in a single document all of the requirements that pertain to a single source. All applicable requirements of the pulp and paper NESHAP will ultimately be included in the source's title V operating permit. The permit will contain federally enforceable conditions with which the source must comply.

State operating permit programs must be approved by EPA. Once a State's permit program has been approved, each pulp and paper mill within that State must apply for and obtain an operating permit. If the State where the facility is located does not have an approved permitting program, the owner or operator of a facility must submit the application to the EPA Regional Office under the proposed NESHAP General Provisions. The addresses for the Regional Offices and States are included in the proposed NESHAP General Provisions.

XI. Impacts of Integrated Regulatory Alternative

A. Integrated Regulatory Alternative

As discussed in Section VI, EPA chose an integrated regulatory alternative comprising the selected control technology bases for BAT, PSES, MACT, BPT, BCT and BMPs. Table XI.A–1 summarizes the integrated regulatory alternative. A summary of the impacts of the alternative is presented in Table XI.A–2. Impacts include the effluent and emission reductions and the total annualized costs.

TABLE XI.A–1.—INTEGRATED REGULATORY ALTERNATIVE

Effluent toxic and priority pollutant control (BAT technology basis) by subcategory				HAP emission control (MACT technology basis) by process area, all subcategories			Effluent conventional pollutant control (BPT technology basis), all subcategories	Best management practices, all subcategories
Papergrade kraft and soda	Papergrade sulfite	Dissolving sulfite	Dissolving kraft	Pulping component	Bleaching component	Process wastewater component		
BAT Option 4	BAT Option 2	BAT Option 1	BAT Option 2	MACT Floor	MACT Floor	MACT Floor		
Oxygen delignification or extended cooking and complete substitution 100% of chlorine with chlorine dioxide.	Totally chlorine free bleaching.	Oxygen delignification and complete substitution of chlorine with chlorine dioxide.	Oxygen delignification and 70% substitution of chlorine with chlorine dioxide.	Combustion of all vents (except deckers and screens).	Scrubbing at all vents.	Steam stripping of digester condensates, evaporator condensates, turpentine recovery wastewaters.	Wastewater treatment improvements to performance level of 50% of mills.	Pulping and black liquor spill prevention and control.

TABLE XI.A–2.—SUMMARY OF IMPACTS OF PULP AND PAPER INTEGRATED REGULATORY ALTERNATIVE

Effluent reductions (Mg/yr)			Emission reductions (Mg/yr)			Total annualized compliance cost ($ 1992 million)
Toxics	AOX	Conventional pollutants	Hazardous air pollutants	Volatile organic compounds	Total reduced sulfur	
2,800	45,100	227,000	120,000	716,000	295,000	$600

B. Costs and Economic Impact Considerations

1. Regulatory Compliance Costs

a. Engineering Control Cost Estimates. The cost of the integrated regulatory alternative can be expressed in several different ways. One way is an engineering control cost estimate, which is an estimate of the price paid by a facility to install equipment and perform procedures to meet an environmental standard. These costs are incremental to any existing regulatory compliance costs, and are specific to the proposed standards. These costs are comprised of a total capital investment (TCI) component and an annual operating and maintenance (O&M) component.

The BAT and PSES costs presented in Section IX.G consider only capital and O&M costs associated with process changes, best management practices, and COD control. The costs of the integrated regulatory alternatives, which are presented in this section, include both of these components (TCI and O&M) for both air and water pollution control. All costs in this section are expressed in 1992 dollars.

The TCI component is an estimate of the purchase price of capital equipment and installation services to meet the proposed standards. For the integrated alternative, the national estimate of TCI is $4.0 billion. The O&M component is an estimate of the cost to operate and maintain the capital equipment installed to meet the standard, the estimated cost of work practice requirements, and an estimate of the annual cost of overhead items associated with the capital equipment that includes the cost of insurance and local property taxes. The national estimate of annual O&M costs is $401 million.

The TCI can be annualized and added to the O&M component to result in a national estimate of the total annualized cost (TAC) of the proposed integrated regulatory alternative. The TCI is annualized by amortizing the TCI over the depreciable investment life of the installed equipment using a 10% discount rate. When calculated this way, the TAC of the integrated regulatory alternative is $921 million. Additional information about the development of engineering control costs is included in Sections IX.G and X.L of this preamble and in supporting documents (background information document and technical water development document).

b. Mill-Specific Compliance Cost Calculations. Another way to express the cost of the integrated regulatory alternative is to estimate the actual after-tax cost to an individual facility of installing equipment and performing procedures to meet an environmental standard. This cost estimate is often referred to as the private cost, because it estimates the cost of the regulatory alternative to private entities. This calculation is made for each facility by analyzing facility cash flows for pollution abatement activities over the depreciable life of the TCI. This calculation reduces the annual cost by the reduction in annual tax liability that facilities are able to realize as a result of increases in operating and depreciation expenses, and assumes the facility will be able to fully utilize the value of these reductions each year. The total annualized private cost—i.e., the sum of the annualized compliance cost for each affected facility—of the integrated regulatory alternative is estimated to be $600 million.

2. Economic Impact Analysis Methodology

The Agency's economic impact analysis of the integrated regulatory alternative addresses concerns about the

economic achievability and potential market disruptions created by environmental regulation. The Agency has used the results of both a financial impact analysis and a market impact analysis to address these concerns. The economic impact analysis is presented in "Economic Impact and Regulatory Flexibility Analysis of Proposed Effluent Guidelines and NESHAP for the Pulp, Paper, and Paperboard Industry." This document details the use of regulatory compliance costs, the economic impact methodologies, and the projected economic effects of the proposed rule. A summary of the key economic impact results is presented in this section.

a. Financial Impact Analysis. The financial impact analysis estimates the incidence of mill closures, the potential employment, output, and export impacts associated with mill closures, and the change in key financial ratios attributable to the incremental compliance costs. To estimate potential mill closure, the analysis compares estimates of the discounted present value of future earnings to estimates of mill salvage value. The comparison is made to determine whether, after imposing regulatory compliance costs, the mill would be more valuable to the current owner if it were shut-down and liquidated rather than in continued operation. The analysis also estimates the changes in key financial ratios (a measure of financial health of mills) after imposing regulatory compliance costs, and compares the changes to fluctuations that have historically occurred in the business cycle.

b. Market Impact Analysis. The market impact analysis estimates mill supply responses and end-use demand responses to regulatory compliance costs for all market actors in 31 defined product markets. This analysis estimates the potential changes in pulp, paper, and paperboard product prices, individual and overall mill production and employment levels, foreign imports and domestic exports, and mill production costs and revenues. The analysis estimates mill closures by estimating the post-regulatory earnings before interest, depreciation and taxes (EBIDT). Negative earnings indicate potential closure.

3. Economic Impact Analysis Results

The Agency estimates that approximately 300 pulp, paper, and paperboard mills will incur direct costs to comply with the proposed regulation. Mill closure projections are based on quantitative estimates of several economic factors, but the decision to close an industrial facility depends on many judgments outside the scope of the Agency's analysis. Thus, the Agency's projections of potential closures are interpreted as an indication of the extent of plant impact rather than as a prediction of certain closure.

The Agency estimates that between 11 and 13 mills will face the possibility of closure as a result of the change in production costs due to the integrated regulatory alternative, and from 2,800 to 10,700 jobs could be lost. This range is created by differences in the assumptions used in the financial and the market models. The upper end of the ranges reflects more conservative assumptions.

Market prices for pulp, paper, and paperboard products are not expected to be significantly affected, with the largest price increase being 2.7 percent for uncoated free sheet (used to make copy paper, writing tablets, etc.). The estimated overall impact of the integrated regulatory alternative on the total value and quantity of foreign imports of pulp, paper, and paperboard products is minor— less than 1 percent. The most notable increases in import quantities for significant individual product groups are 1.4 percent for clay coated printing paper, 1.5 percent for recycled paperboard, and 6.1 percent for folding carton board.

The estimated overall impact on the total value and quantity of exports is also minor. However, individual product groups may experience significant declines in export value. The most notable declines in export value for significant individual product groups are 20.5 percent for uncoated free sheet, 7.6 percent for recycled paperboard, 6.5 percent for newsprint, and 3.8 percent for bleached sulfite pulp.

4. Regulatory Flexibility Analysis

Part of the Agency's task of complying with the Regulatory Flexibility Act (5 U.S.C. 601 et seq., Pub. L. 96–354) requires the Agency to examine the potential economic impact of regulatory actions on small entities. The Agency has estimated the economic impact of the integrated regulatory alternative on small mills and small companies involved in pulp, paper, and paperboard manufacturing, and has attempted to illustrate the potential disparate impacts between the groups of large and small manufacturers.

For purposes of this proposed rule, the Agency has considered several alternative definitions for small entities to capture the unique size and structure characteristics of this industry. The Agency considered three alternative definitions for small entities: (1) individual mills employing less than 750 workers, (2) individual mills employing less than 125 workers, and (3) independently owned and operated companies employing less than 750 workers. Under the last definition, small companies can be independently owned single-facility entities, or multi-facility companies that own more than one pulp and paper mill, or own multiple businesses in two or more SIC categories. The Agency used each of these definitions to characterize the impacts of the proposed standards on small entities.

The Agency estimates that 35 percent of the mills in the industry employ less than 125 workers and 84 percent employ less than 750 workers. Of the nearly 215 companies, about 70 percent meet the definition of small. The analyses indicate that between one and six estimated mill closures are mills employing less than 125 workers, and about 9 of the estimated closures are mills employing less than 750 workers. Also, roughly one-half of all estimated closures are mills owned by small companies.

The Agency examined the impact of the proposed rules on relevant financial ratios of both large and small facilities. The median results showed that facilities employing less than 125 workers experience less deterioration in financial health than larger facilities. The results were similar for facilities employing less than 750 employees. The company-level ratio analysis generally indicates less deterioration in financial health for small companies as well. The exceptions to this conclusion are the results for the net working capital-to-total assets ratio. Here, small companies experience larger declines than large companies, presumably due to the smaller baseline net working capital that smaller companies have.

The Agency also examined potential changes in facility earnings before interest, taxes, and depreciation (EBITD). The results indicate that, as a group, facilities employing less than 125 workers had a smaller decline in EBITD than large facilities. The same holds true for facilities employing less than 750 employees.

The Agency also employed the Altman Z-score method to estimate the likelihood of bankruptcy for companies, and assess potential differences between large and small company impacts of the proposed standards. This analysis indicates that small companies are not any more likely to face bankruptcy than large companies.

5. Regulatory Impact Assessment

The Agency has prepared a regulatory impact assessment (RIA) for the proposed integrated regulatory alternative. The RIA responds to the requirements in Executive Order 12866 to assess both the costs and benefits to society of significant regulatory actions. Significant regulatory actions are that impose an annual cost to the economy of $100 million or more, or have certain other regulatory, policy, or economic impacts. The RIA is detailed in, "Regulatory Impact Assessment of Proposed Effluent Guidelines and NESHAP for the Pulp, Paper, and Paperboard Industry," (see Section II for availability of this and other supporting documents). This RIA was submitted to OMB for review as required by Executive Order 12866 (and under Executive Order 12291 prior to the new executive order).

The RIA analyzes the effect of current discharges and air emissions and assesses benefits of proposed integrated regulations for the pulp, paper and paperboard industry. Three types of benefits are analyzed: non-quantified and non-monetized benefits, quantified and non-monetized benefits, and quantified and monetized benefits. The non-quantified, non-monetized benefits assessed in this RIA include improvements to recreational fishing, improved aesthetic quality of waters near the discharge outfalls, and benefits to the wildlife and to threatened or endangered species.

The quantified, non-monetized benefit assessment includes an assessment of the potential risk reduction benefits to human health and aquatic life from reduced air and water releases.

The monetized benefits analysis focuses on human health as applicable, and environmental benefits as related to reduced water and air releases. The health risk reduction benefits are associated with reduced human exposure to various carcinogenic and noncarcinogenic contaminants through inhalation and consumption of subsistence and recreationally-caught finfish.

Because benefits are often highly site-specific, the RIA also presents four case studies that compare costs and benefits of reducing pollutant releases in specific geographic areas. These case studies examine values associated with human health risk reductions, recreational uses, nonuse benefits, and benefits to Native American tribal members.

a. Water Quality Benefits. Pulp and paper mill effluents contain toxic and nonconventional chemical compounds, and conventional pollutants. Discharge of these pollutants into the freshwater, estuarine, and marine ecosystems may alter aquatic habitats, affect aquatic life, and adversely impact human health. Discharges from chlorine-bleaching mills are of particular concern. Many of the chlorinated organics in these effluents are either human carcinogens, human systemic toxicants, or aquatic life toxicants. In addition, many of these pollutants are persistent, resistant to biodegradation and bioaccumulate in aquatic organisms.

Two pollutants of particular concern are 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) and 2,3,7,8-tetrachlorodibenzofuran (TCDF). TCDD and TCDF are extremely toxic to aquatic life, are listed as probable human carcinogens, and are known to have adverse effects on human reproduction and liver function. Furthermore, as of June 1993, states had issued 23 dioxin-related fish advisories and bans near 29 bleaching pulp and paper mills.

The Agency's analysis of these environmental and human health risk concerns and of the water-related benefits resulting from the proposed effluent guidelines is contained in "Water Quality Assessment of Proposed Effluent Guidelines for the Pulp, Paper, and Paperboard Industry," hereafter called the water quality assessment (see Section II for availability of this document). This assessment both qualitatively and quantitatively evaluates the potential human health benefits and water quality benefits of controlling the discharges from four bleaching subcategories (Dissolving Kraft, Bleached Papergrade Kraft, Dissolving Sulfite, and Papergrade Sulfite) in a mill-specific analysis of 26 pollutants. (see Section IX.C for a discussion of the pollutants). In addition, the environmental significance of discharges from the non-bleaching segment of the industry is also qualitatively examined.

(1) Qualitative Description of Water-Related Benefits. Water-related benefits to aquatic life include reduction of toxic, conventional, and nonconventional pollutants to levels below those considered to impact receiving water's biota. Such impacts include acute and chronic toxicity, sublethal effects on metabolic and reproductive functions, physical destruction of spawning and feeding habitats, and loss of prey organisms. Chemical contamination of aquatic biota may also directly or indirectly impact local terrestrial wildlife and birds.

The proposed BPT limitations and BMP controls are expected to significantly reduce environmental impacts by reducing discharges of such conventional pollutants as BOD and TSS. For example, habitat degradation can result from increased suspended particulate matter that reduces light penetration and, thus, primary productivity, or from an accumulation of fibers that alters benthic spawning grounds and feeding habitats.

(2) Quantitative Estimate of Water-Related Benefits. EPA has quantified human health and aquatic life benefits using a site-specific analysis for baseline conditions and for the conditions that could be achieved by BAT process changes. The largest benefit category under water-related benefits is the reduction in the number of potential cancer cases from the consumption of non-contaminated fish by recreational and subsistence anglers. The next largest category of benefits is derived from the lifting of 13–17 dioxin-related fish advisories. This will increase the number of recreational anglers substantially from the current levels—from an estimated 135,600 people who currently fish to between 161,400 and 162,400 anglers. Quantified but not monetized benefits include reductions in exceedances of health-based water quality toxic effects levels and aquatic life criteria.

Quantified human health benefits are projected by:

- Estimating potential reduction of carcinogenic risk and non-cancer hazards from fish consumption;
- Estimating the number of existing dioxin-related State fish advisories potentially lifted after implementation of BAT; and
- Comparing estimated in-stream concentrations to health-based water quality toxic effect levels. Quantified aquatic life benefits are estimated by comparing modelled in-stream concentrations to aquatic life water quality criteria or toxic effect values.

The methodologies used in these analyses, including all assumptions and limitations, are explained in the water quality assessment.

(i) Cancer Risk and Non-Cancer Hazards and Benefits. Upper-bound individual cancer risk, aggregate risk, and non-cancer hazards from consuming contaminated fish are estimated for recreational and subsistence anglers. Concentrations of six carcinogenic and eleven systemic toxicants in fish are estimated for 100 mills located near 68 receiving streams using two site-specific water quality models (a Simple Dilution model and the Dioxin Reassessment Evaluation model). Modelled fish concentrations are used to estimate cancer risk and non-cancer hazards for recreational and

subsistence fishing populations, and to project the effect of BAT on existing dioxin-related fish advisories.

Projected individual cancer risks vary with the water quality modelling approach and vary among the evaluated mills and between recreational and subsistence anglers. TCDD and TCDF contribute most of the estimated cancer risks. The totally chlorine free (TCF) BAT option for the Papergrade Sulfite subcategory is projected to eliminate all chlorinated organic chemical releases (including TCDD and TCDF). Consequently, the estimated baseline individual cancer risk will be eliminated over time. Proposed BAT options for the Papergrade Kraft and Soda, Dissolving Kraft, and Dissolving Sulfite subcategories are projected to reduce average baseline individual cancer risks by about one order of magnitude.

For combined recreational and subsistence angler populations, the proposed BAT for all four subcategories is also projected to eliminate approximately 5 to 35 annual cancer cases per year from a baseline of about 6 to 37 cases projected at the current discharge level; this is a reduction of between 86 percent and 93 percent. The range of values reflects the two different models used for the cancer risk and benefit assessment.

TCDD and TCDF also account for a majority of the projected non-cancer baseline hazard. Only two additional pollutants, 4-chlorophenol and 2,4,5-trichlorophenol are projected to exceed their non-cancer human health hazard levels (RfDs) at the current discharge levels. The proposed TCF BAT option is expected to eliminate all chlorinated organic chemical releases (including TCDD and TCDF). Consequently, projected baseline non-cancer hazards for the Papergrade Sulfite subcategory will be eliminated over time. Proposed BAT options for the Papergrade Kraft and Soda, Dissolving Kraft, and Dissolving Sulfite subcategories are projected to reduce the number of mills with projected non-cancer hazards from between 68–84 mills to 22–52 mills, or by 38 to 68 percent. As with the cancer risk, the range of values for non-cancer hazards reflects the two different modelling approaches.

(ii) Impact of BAT Controls on Dioxin-Related Fish Advisories. EPA estimates that as of June 1993, 23 dioxin-related fish consumption advisories were in-place downstream of bleaching pulp and paper mills. EPA analyzed 20 of these advisories by comparing modelled TCDD and TCDF fish concentrations for each BAT option (using two modelling approaches) to State-specific advisory action levels or site-specific risk levels. Data limitations for State advisory action levels and stream flow precluded benefits estimates for the remaining three advisories. Of the 20 fish advisories analyzed, three are related to PCBs and mercury—pollutants that are not being addressed in the proposed rule—and will remain in effect. In addition, due to low action levels used by some states, low receiving water stream flow rates, and uncertainties in the projected dioxin levels, up to four dioxin-related fish advisories will not be lifted. In total, 13 to 17 fish advisories could potentially be lifted after implementation of proposed BAT.

(iii) Exceedances of Health-Based Water Quality Toxic Effect Levels. EPA also compared the modelled in-stream pollutant concentrations to health-based toxic effect levels. Exceedances of the toxic effect levels indicate potential health-based water quality problems.

At current discharge levels, modelled receiving water pollutant concentrations for up to eight pollutants (of 13 pollutants with human health toxic effect levels) and for 97 mills are projected to exceed human health based toxic effect levels. The proposed TCF BAT option eliminates the projected baseline impacts of four pollutants and 9 mills in the Papergrade Sulfite subcategory. The proposed BAT for the Papergrade Kraft and Soda subcategory reduces the projected baseline impacts from eight pollutants and 80 mills to four pollutants and 71 mills. For the Dissolving Kraft subcategory, the proposed BAT reduces baseline impacts from seven pollutants and three mills to three pollutants and two mills. The proposed BAT for the Dissolving Sulfite Subcategory will not change projected baseline impacts for four pollutants and 5 mills.

(iv) Aquatic Life Benefits. EPA assessed the effects of toxic discharges on aquatic life by comparing modelled in-stream pollutant concentrations to the EPA aquatic life criteria or to toxic effect values. The water quality assessment is based on pollutants both regulated and removed incidentally. Exceedances of these pollutant values indicate potential impacts to aquatic life.

EPA modelling results show that receiving water pollutant concentrations for up to nine pollutants and 28 mills exceed aquatic life criteria or toxic effect levels at current (baseline) discharge levels. Proposed BAT options are projected to reduce these baseline impacts almost to zero. Only one pollutant, TCDD, is projected to exceed the chronic aquatic life toxic effect value at proposed BAT for one mill.

(3) Monetization of Water Quality Benefits. EPA has monetized the human health benefits that were quantified using the two site-specific water quality models. Under the Simple Dilution model, the benefits range between $70 million and $350 million. Under the Dioxin Reassessment Evaluation model, the benefits range between $10 million and $50 million. EPA has also estimated the benefit of lifting the fish advisories. Estimates of increased values of the fishery to anglers range from $5 million to $24 million annually. Additionally, annual benefits from avoided sludge disposal costs are estimated to be $56 million. Thus, the monetized water-related benefits range from $72 million to $430 million. These estimates, however, do not include the benefits that have been identified but not monetized, such as reduction in water quality criteria exceedances, etc.

(4) Limitations and Uncertainties Associated With Estimating Water Quality Benefits. Uncertainties specific to TCDD and TCDF notably affect the human health and aquatic life benefits because these two pollutants so significantly contribute to the benefits estimates. Important assumptions include: estimates of pollutant loadings when TCDD and TCDF were not detected in laboratory measurements; and use of bioconcentration factors, aquatic life toxic effect values, cancer slope factors, reference doses (RfDs), and toxic equivalency factors (TEFs) that may be updated based on EPA's dioxin reassessment.

Also, the methodology used to estimate fish advisory-related benefits assumes the bleaching pulp and paper mills are the only source of the dioxin in the stream segment; the methodology does not incorporate background contributions either from contaminated sediments due to previous discharge practices or other upstream sources. Furthermore, although the discharge of these contaminants may cease or be minimized, sediment contamination and subsequent accumulation of dioxin in aquatic organisms may continue for years. Actual improvements could only be determined by site-specific biological monitoring to assess the impact of eliminating fish consumption advisories.

b. Air Quality Benefits. The Agency also examined the air quality benefits that would result from implementation of the proposed integrated regulatory alternative. This regulatory alternative is expected to reduce emissions of a wide range of hazardous air pollutants (HAPs), volatile organic compounds (VOC), and total reduced sulfur (TRS). The air quality benefits expected to

result from these emission reductions will be a decrease in adverse health effects associated with inhalation of the above pollutants, as well as improved welfare effects such as improved crop yields.

(1) Qualitative Description of Air Quality Benefits. The Agency examined the impact of the proposed integrated regulatory alternative on emissions of air pollutants regulated under the Clean Air Act. As shown in Table XI.A–2, VOC emissions are expected to greatly decrease. This reduction is expected to occur because most of the organic HAPs emitted by sources in this industry are also classified as VOC, and the MACT requirements for controlling these organic HAP emissions also control the VOC emissions.

Emissions of VOC are responsible for causing both health and welfare effects. Volatile organic compounds are precursors to the formation of ozone. Approximately 12 percent of the VOC emission reductions projected to result from today's proposal occur in areas out of attainment of the National Ambient Air Quality Standards for ozone.

The benefits of reducing VOC emissions are analyzed in terms of reduced ambient ozone levels. Human exposure to ozone primarily affects the lungs. Ozone's most perceptible effects on human health are acute respiratory symptoms such as coughing and painful deep breathing. Repeated exposure to ozone over a lifetime may result in permanent impairment of the lungs.

Elevated concentrations of ambient ozone are also associated with adverse welfare effects. The typical concentration level of ozone found in rural areas is thought to depress crop yields and cause visible damage to other plant life such as premature aging and leaf loss. Reduced ambient ozone levels are expected to result in decreased adverse health effects from ozone exposure as well as decreased adverse welfare effects such as crop damage.

An additional category of benefits expected to result from the implementation of the integrated regulatory alternative is the reduction of TRS emissions. Table XI.A–2 shows that the integrated regulatory alternative is expected to greatly decrease TRS emissions. As with the VOC emissions, total reduced sulfur compounds are emitted with the organic HAPs and the MACT requirement for controlling the organic HAP emissions also controls TSR emissions.

Total reduced sulfur emissions are responsible for the malodors often associated with pulp and paper production. The benefits of reducing total reduced sulfur emissions will be the alleviation of the malodor problem. Potential health benefits such as the alleviation of headaches and nasal irritation may also result.

Section 112 of the CAA requires EPA to regulate HAP emissions. The proposed regulation is expected to reduce emissions of a wide range of HAPs. Inhalation of HAPs can cause a variety of adverse health effects. Some are classified as known or suspected human carcinogens. Reducing the emissions of these pollutants will reduce the cancer risk of the exposed population. Other hazardous air pollutants have not been proven as human carcinogens, but have been shown to cause adverse health effects such as lesions or abnormal cell growth in animals. Health benchmark concentrations have been established for many of the pollutants in this category. The benefits of reducing the emissions of pollutants in this category will be through decreased human exposure to these pollutants below the benchmark concentrations.

Although the proposed regulation will reduce emissions of a wide range of pollutants, the integrated regulatory alternative is expected to slightly increase emissions of carbon monoxide, nitrogen oxide, sulfur dioxide, and particulate matter. These emission increases result from combustion controls that are the basis for the proposed MACT standards. Adverse health and welfare effects are associated with the emissions of these pollutants.

Exposure to carbon monoxide emissions may lead to aggravation of the cardiovascular, central nervous, or pulmonary systems. Like volatile organic compounds, nitrogen oxide emissions are precursors to ozone formation. Sulfur dioxide emissions can be transformed into acid rain, which has negative effects on crop yields and other plant life. However, it should be noted that the negative benefits associated with the emissions of these criteria pollutants are by far outweighed by the positive benefits resulting from decreases in the emissions of hazardous air pollutants, volatile organic compounds, and total reduced sulfur.

(2) Quantitative Assessment of Air Quality Benefits. Reductions in VOC emissions result in the largest category of benefits that has been both quantified and monetized. Reductions in TRS emissions address the odor problem and have been quantified but not monetized. Likewise increases in emissions of some criteria pollutants were quantified but not monetized. This assessment also found human health benefits associated with reductions in HAP emissions to be minimal.

The largest category of benefits expected to result from this regulation is the reduction of VOC emissions by approximately 716,000 Mg annually. The control of VOC emissions is important because the presence of these compounds is a precursor to ozone formation. Although data limitations prevent quantification of the amount of VOC emissions that are actually transformed into ozone, the approach for valuing the benefits of reducing VOC emissions will be derived from the monetized benefits of reducing ozone.

This regulatory alternative is also expected to reduce TRS emissions by approximately 295,000 Mg annually. Total reduced sulfur emissions are responsible for the rotten egg smell often associated with areas near pulp and paper mills. Surveys of odor pollution caused by pulp mills have supported a link between odor and health symptoms such as headaches, watery eyes, runny noses, and breathing difficulties. The above symptoms are not readily measured or verified objectively. Therefore, the benefits of reduced total reduced sulfur emissions are not further quantified.

The increase in emissions of carbon monoxide, nitrogen oxide, sulfur dioxide, and particulate matter will be presented as the negative benefits of the integrated regulatory alternative. Carbon monoxide emissions are expected to increase by approximately 300 Mg annually, nitrogen oxide emissions by 1,300 Mg annually, sulfur dioxide emissions by 168,200 Mg annually, and particulate matter emissions by 100 Mg annually. As shown, the increase in emissions of sulfur dioxide are larger than other criteria pollutant emission increases; however, they are estimated to be less than 15 percent of total sulfur dioxide emissions currently generated by the pulp and paper industry.

Sulfur dioxide emissions in the pulping component, estimated to be approximately 151,000 Mg/yr, are attributed to the formation of sulfur dioxide from combustion of TRS in the pulping vent streams. Sulfur dioxide emissions from the wastewater component, approximately 17,700 Mg/yr, are generated by the fuel used to make steam that is used in steam stripping. This estimate is based on several assumptions, including the assumption that large TRS sources, such as digester and evaporator vents, are continuously controlled at baseline. Another assumption is that criteria pollutants are released from recovery furnaces, power boilers, lime kilns, and smelt tanks according to the emission rate established in AP–42.

Due to lack of benefits data, the adverse health and welfare effects of increased emissions of sulfur dioxide and other criteria pollutants cannot be further quantified.

Although this source category emits a wide variety of hazardous air pollutants, only a small portion of the pollutants are emitted in sufficient quantities to pose a threat to human health and the environment. [See background information document for a complete list of the hazardous air pollutant emissions that will be affected by the integrated regulatory alternative.] A risk assessment of the carcinogenic hazardous air pollutants evaluated the cancer risk these pollutants pose to humans. [Refer to the Air Quality Assessment Document for a complete discussion of the cancer risk methodology.]

Of the HAPs that are known or suspected human carcinogens, acetaldehyde, carbon tetrachloride, chloroform, formaldehyde, and methylene chloride were evaluated because emissions data for the pulp and paper industry and toxicologic data indicated that these pollutants adversely affect human health. The results of the risk assessment of these five pollutants indicated that the integrated regulatory alternative would reduce annual cancer risk by 0.39 of a statistical life. A statistical life is defined to be the sum of reduction in cancer risk for the exposed population.

Non-carcinogenic HAPs were evaluated using an exposure assessment model. [See the Air Quality Assessment Document for a complete discussion of the exposure assessment methodology.] A dose-response expressed in terms of an inhalation reference concentration (RfC) was used to evaluate the adverse health effects of acrolein, acetaldehyde, toluene, 2-butanone, methanol, hydrochloric acid, and hexane. The baseline exposure analysis revealed that only two of the seven pollutants, acrolein and acetaldehyde, posed any adverse health threat to the exposed population. An analysis of emissions of these pollutants after the imposition of the integrated regulatory alternative revealed that an estimated 1,285,000 people would have their exposure reduced from being above the RfC health benchmark to being below the benchmark. The significance of the RfC benchmark is that exposures to levels below the RfC are considered "safe" because exposures to concentrations of the chemical at or below the RfC have not been linked with any observable health effects.

(3) Monetized Air Quality Benefits. The largest category of benefits expected to result from the regulation are the benefits from VOC emission reductions (and therefore, reduced ambient ozone levels). Valuation of the acute health and agricultural effects attributable to the VOC emission reductions (using average benefit per Megagram value) resulted in an estimated total annual benefit ranging from $88.1 million to $552.0 million.

It is important to note that the approach used to monetize the benefits of the VOC emission reductions only account for the acute health effects and agricultural benefits associated with reduced exposure levels. However, this approach ignores the chronic health effects associated with repeated exposure to ozone. This omission results in an underestimation of the total value of reduced ozone levels. This conclusion is based on the evidence (provided in the RIA) citing the possibility of reversing the adverse health effects due to acute ozone exposure versus the permanent adverse health effects due to chronic ozone exposure.

Another large category of benefits, the benefits of reducing total reduced sulfur emissions, was not monetized because health and welfare benefits associated with undesirable odors are not readily quantified.

An increase in emissions of carbon monoxide, nitrogen oxide, sulfur dioxide, and particulate matter are expected to result in negative benefits. Lack of benefits data associated with these criteria pollutant emissions prevent the negative benefits of these emission increases from being monetized.

The risk analysis showed that the regulation will decrease annual cancer risk by 0.39 of a statistical life. A range of estimates for valuing reduced risk were used to monetize this benefit category. The total annual benefit of the above cancer risk reduction is estimated to range from $0.8 million to $4.2 million. The results of the exposure assessment could not be monetized because information on valuing reduced exposure to hazardous air pollutants was not available.

Net monetized air related benefits, summed for all benefit categories, range between $89 million and $556 million. The monetized benefits presented above are believed to underestimate the total air quality benefits expected to result from the regulation. This underestimation is due to a lack of benefits data that prevents all categories of benefits from being fully quantified and monetized. Furthermore, the positive but non-monetized benefits of reducing exposure to non-carcinogenic hazardous air pollutants, reducing some categories of adverse health effects from ozone exposure, and reducing odor (and potentially health) problems caused by total reduced sulfur emissions are expected to outweigh the negative but non-monetized benefits of increasing emissions of carbon monoxide, nitrogen oxide, sulfur dioxide, and particulate matter.

(4) Limitations Associated with Estimating Air Benefits. Lack of information for several benefit categories precludes a complete quantification of all benefit categories. The benefits assessment was limited to analyzing the pollutants for which emissions information, including toxicity data, was available. Similarly, data limitations precluded quantified estimates of the amount of VOC that is actually transformed into ozone. The benefits of reducing total reduced sulfur (TRS) emission have not been monetized because odor problems and their link to health symptoms were not readily quantified.

c. Summary of Air and Water Benefits. The combined range of national-level air and water benefits from the proposed regulation are shown in Table XI.B–1. Air-related benefits incorporate both human health risk reductions and air quality improvements. The total benefits from the regulation are estimated to range from $160 million to $987 million.

TABLE XI.B–1.—POTENTIAL NATIONWIDE AIR- AND WATER-RELATED MONETIZED BENEFITS OF THE PROPOSED PULP AND PAPER REGULATION

Benefit category	Millions of 1992 dollars per year
Air:	
• Human Health	$0.8–$4.2
• Air Quality	$88.1–$552.0
Air benefits range	$88.9–$556.2
Water:	
• Human Health	$10.0–$430.4
• Recreational Angling	$5.2–$24.1
• Avoided Sludge Disposal Costs	$56.3
Water benefits range	$71.5–$430.4
Combined air and water benefits range	$160.4–$986.6

Note: Does not include benefits that could not be quantified, or that could be quantified but not monetized. These may be considerable. See discussion above.

d. Costs To Society. The social costs of regulatory actions are the opportunity costs to our society of employing our scarce resources in pollution control activity. The social costs of regulation include both monetary and non-

monetary outlays made by society. Monetary outlays include private-sector compliance costs, government administrative costs, and other adjustment costs, like the cost of reallocating displaced workers. Non-monetary outlays, many of which can be assigned monetary values, include losses in consumers' and producers' surpluses in affected product markets, discomfort or inconvenience, loss of time, and a slowdown in the rate of innovation. The Agency used the results of the market impact model to approximate the social cost of the proposed standards. The annual social cost estimate for the integrated regulatory proposed alternative is $948 million.

Included in this cost are estimates of the losses in both consumer and producer surplus in affected markets ($920 million), estimates of worker displacement costs ($25 million), and estimates of private and government administrative costs for the NESHAP ($3 million). In some instances, EPA believes that compliance with the proposed regulation will result in increases in productivity, enhanced product quality, and improved plant equipment throughout the chemical pulping and bleaching segments of the industry. These considerations, which have a positive social value, have not been included in estimates of the social cost of the rule. However, comment on these considerations is being solicited in section XIII.B of this preamble. These social cost estimates also do not include the private and government administrative costs associated with the effluent guidelines.

e. Benefit-Cost Comparison. Because not all of the benefits resulting from the integrated regulatory alternative can be valued in terms of dollars, a complete cost-benefit comparison cannot be performed. The social cost of the alternatives considered in the proposed rule, discussed in the preceding section, is estimated to be $948 million. The sum total of benefits that can be valued in dollar terms ranges from $160 to $987 million.

As shown in Table XI.B–2, the range of total social cost and combined air and water benefits overlap each other considerably. If all of the benefits that were identified could be quantified and monetized, the overlap between these ranges would be even greater.

TABLE XI.B–2.—COMPARISON OF NATIONAL ANNUAL BENEFITS TO COSTS FOR THE PULP AND PAPER RULEMAKING

Benefits	Millions of 1992 dollars per year
Air benefits	$88.9–$556.2
Water benefits	$71.5–$430.4
Combined air and water benefits	$160.4–$986.6
Total social cost	$948.0
Industry compliance cost for the proposed integrated alternative	$600.0

Note: The calculation of monetized air-related benefits includes benefits from reductions in annual cancer incidences as well as acute health and agricultural benefits attributable to VOC emission reductions. Refer to Section XI.5.b.(3) of this preamble for a complete list of benefit categories that were not monetized due to lack of data.

f. Benefit-Cost Comparison Using Case Studies. Because benefits are often highly site-specific, EPA also estimated both costs and benefits at four sites using a case study approach. The case studies include segments of: (1) The Wisconsin River, located in central Wisconsin; (2) the lower Columbia River in Washington State; (3) the Penobscot River in Maine; and (4) the Leaf River in Mississippi. The case studies were selected to provide geographic representation of the impacts of the proposed regulation, taking data availability into consideration.

(1) The Penobscot River Case Study. The Penobscot River is the site of a sensitive Atlantic Salmon run and the State's most active salmon sport fishery. The river now accounts for about 83 percent of the total salmon catch (kept and released) in Maine. It is also important to the Penobscot Indian Nation, whose territory includes 146 islands located in the river. Dioxins were first detected in fish tissue samples in 1983, and a fish consumption advisory was issued for the 1988 fishing season for a section of the river.

The Penobscot receives discharges from 5 pulp and paper mills and 10 major municipal sources over its entire length of 103 miles. Two of these mills are bleached kraft facilities. The proposed regulation may result in lower concentrations of dioxin in fish tissue and may lead to lifting of the fish advisory. As a result, human health risk would be reduced and both subsistence and recreational angler populations would benefit; fishing on the river may increase; and finally, ecological benefits would accrue, notably for piscivorous birds and mammals. These benefits are quantified and monetized and total in the range of $0.6 to $2.5 million per year.

For this case study area, the acute health and agricultural benefits associated with reduced air emissions are estimated to be in the range of $0.4 to $2.3 million per year. The combined range of benefits is $1.0 to $4.8 million. In comparison, the estimated annualized compliance costs to the two mills affected by the proposed regulation are somewhat higher than the range of benefits shown above. For confidentiality reasons, cost estimates cannot be presented for this case study.

(2) The Wisconsin River Case Study. The Wisconsin River provides both important recreational opportunities as well as habitat for wildlife, including important endangered species. The use and nonuse values are currently limited by environmental quality, with significant impacts from dioxin contamination as evidenced by a number of fish advisories.

Demand for water-related recreation in this case study area is high. The primary uses of the river and river parks are passive day-use, swimming, fishing, picnicking, boating, waterskiing, camping and hunting. This is also the third most popular fishing region in the state. Fish found in this section of the river include walleye, northern pike, bass, largemouth bass, bluegill and muskie. The monetized benefits of the proposed requirements are in the range of $0.5 and $3.4 million.

For this case study area, the acute health and agricultural benefits associated with reduced air emissions are estimated to be in the range of $0.9 to $5.4 million. The combined range of benefits is $1.4 to $8.8 million. In comparison, the five affected mills incur an estimated $15.4 million in annualized costs to meet the proposed requirements. The estimated social cost of regulating the mills in the study are $24.9 million.

(3) Lower Columbia River Case Study. The Columbia River and its tributaries comprise the dominant water system in the northwestern United States. The Columbia River basin is rich in natural resources that provide for the needs and services of both people and the environment. In addition to supporting a myriad of industries, the river also supports a substantial fishery that provides recreation to thousands of anglers annually. Popular species caught in the lower Columbia include shad, walleye, steelhead, sturgeon, and several species of salmon. In addition, a valuable commercial fishery thrives on the river and contributes to Washington state's economy.

Estimates of the total value of benefits associated with the proposed reduction in dioxin and other contaminants to the lower Columbia river are a sum of the values from four categories: human health, recreational fishing, commercial fishing, and non-consumptive use. The total annual benefits are in the range of $1.8 million and $12.5 million.

For this case study area, acute health and agricultural benefits associated with reduced air emissions are estimated to be in the range of $4.2 to $26.5 million. The combined benefits are in the range of $6.0 to $39.0 million. In comparison, the total annualized compliance costs for the affected facilities are $46.0 million. The estimated social costs for the six mills in this study are $67.5 million.

(4) Leaf River Case Study. This case study provides a retrospective look at how process changes may impact environmental conditions at a site. This study documents the effects of changes in the discharges of dioxin and other contaminants from a chlorine-bleaching paper mill in Mississippi.

High levels of dioxin were detected in the plant's effluent and in fish tissue samples downstream of the mill in 1987. A fish advisory was issued in 1989. Process changes began in 1989 to reduce the formation and discharge of dioxin in the mill effluent. Subsequent sampling showed that dioxin in fish declined from 24 ppt in 1989 to 8 ppt in 1990, further declining to 3.6 ppt in 1992.

The downward trend of dioxin detected in fish tissue samples near the mill corresponds with the process changes that were adapted between 1989 and 1991. These changes also correspond to the relaxing of the fish consumption advisory for the river. These types of measurable ecosystem improvements at other sites might be expected from the proposed regulation, with reductions in fish tissue concentrations, and potential elimination of fish advisories.

(5) Summary of Case Studies. Benefits and costs for the case studies are summarized and compared in Table XI.B–3. The case study results indicate that although monetized benefits are less than both social and private costs than at the national level, they are of the same order of magnitude. Case study benefits comprise slightly less than five percent of total national benefits, while case study costs comprise approximately ten percent of total national costs. Thus, the case studies tend to underrepresent potential benefits and overrepresent potential costs. At the national level, water-related benefits are monetized for human health risk reductions and recreational anglers only. The case study analyses also include water quality-related benefits associated with recreational angling, non-consumptive recreation, and ecologic/non-use values.

TABLE XI.B–3.—COMPARISON OF POTENTIAL ANNUAL AIR- AND WATER-RELATED BENEFITS TO THE POTENTIAL COSTS OF THE PULP AND PAPER REGULATION FOR THE CASE STUDY SITES

[Millions of 1992 dollars per year]

Benefits	Penobscot River	Wisconsin River	Columbia River
Water related benefits	$0.61–$2.45	$0.49–$3.43	$1.79–$12.51
Air related [1] benefits	$0.37–$2.30	$0.86–$5.40	$4.22–$26.47
Total benefits	$0.98–$4.75	$1.35–$8.83	$6.01–$38.98
Total Compliance Costs [2 3]	A	$15.46	$46.02
Estimated social costs [1]	A	$24.9	$67.5

A Confidentiality agreements preclude disclosure of total costs for this site.
[1] Source: U.S. EPA/OAQPS.
[2] Total annualized cost of compliance with both air and water controls for the selected regulatory option, using mill specific interest rates.
[3] Source: ERG, 1993.

The case study results shown above compared potential costs and benefits. Another case study, Leaf River, monitored the downward trend in dioxin in fish tissue samples and correlated dioxin measurements to the process changes at the plant from 1989 through 1991. These changes also correspond to the relaxing of the fish consumption advisory for the river.

g. Restoration Costs. One approach to assessing the benefits of reducing dioxin discharges is to consider the potential cost savings associated with restoration efforts to clean water bodies impacted by dioxin or other pollutants.

The remediation costs for the EPA selected alternative in the case studies ranges from $79 to $1,353 per cubic yard. These remediation estimates indicate the potential magnitude of costs associated with addressing problems associated with dioxins (and other persistent toxic compounds) that are found in sediment. Current loadings of dioxin from pulp and paper mills are not expected, in and of themselves, to result in dioxin concentrations in sediments that lead to these types of remedial actions. Nonetheless, current loadings contribute to sediment contamination and, hence, some fraction of the illustrative remediation costs may be interpreted as reflecting societal value associated with reduced loadings.

6. Cost-Effectiveness. Cost-Effectiveness is a Calculation of the Efficiency of Control Technologies for Removing Pollutants.

Cost-effectiveness is calculated as the dollars spent to remove a pollutant divided by the amount (mass) of the pollutant removed. Cost-effectiveness can be calculated incrementally between options or by comparing the total costs and removals for any one technology option to the baseline. The pollutant removals can be expressed as a total mass of a group of pollutants (e.g., tons of total HAPs removed) or as a summation of individually toxic-weighted compounds (e.g., pound-equivalent of a toxic pollutant, such as chloroform). Cost-effectiveness results have different purposes in establishing regulatory control levels in the Clean Water Act and in the Clean Air Act and thus, are discussed separately for effluent limitations and air emission standards.

a. Cost-Effectiveness of Effluent Limitations. EPA's cost-effectiveness analysis for BAT and PSES compares the incremental pounds cost of a control option to the pounds of pollutants removed by the control option, where those pounds are weighted by their relative toxicity. The costs used in this analysis reflect only those technology components that would be necessary to

comply with effluent limitations, not the total costs associated with the integrated regulatory alternative. Similarly, the pollutant removals reflect only the reduced discharges of toxic and nonconventional pollutants discharged in wastewater, not the total reduction of environmental emissions. The cost effectiveness ratios for the BAT and PSES limitations in today's proposed rule are $53 per pound equivalent and $89 per pound-equivalent, respectively.

The cost-effectiveness ratios for each subcategory for BAT are $254 per pound-equivalent for the Dissolving Kraft subcatgory, $13 per pound-equivalent for the Dissolving Sulfite subcategory, $80 per pound-equivalent for the Bleached Papergrade Kraft and Soda subcategory, and $27 per pound-equivalent for the Papergrade Sulfite subcategory. The cost-effectiveness ratios, by subcategory, for PSES are $99 per pound-equivalent for the Bleached Papergrade Kraft and Soda subcategory and $45 per pound-equivalent for the Papergrade Sulfite subcategory.

Additional descriptions of the cost-effectiveness methodology and more detailed results are found in "Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines for the Pulp, Paper, and Paperboard Industry," which is included in the Record and is available as one of the background documents supporting the proposed rule.

b. *Cost-Effectiveness of Air Emission Standards.* The cost-effectiveness of MACT controls is calculated based on the total mass of hazardous air pollutants (HAP) removed by a regulatory alternative. The cost-effectiveness of the MACT floor level of control is estimated at $2,060 per megagram. The integrated regulatory alternative with the next most stringent level of MACT control has an incremental cost-effectiveness of over $91,000 per megagram.

In addition to calculating the cost-effectiveness of MACT controls relative to HAP emissions, the Agency also conducted an incremental cost-effectiveness analysis of MACT controls relative to VOC emission reductions.

As explained in Section XI.B.5.b of this preamble, the largest category of benefits expected to result from the implementation of the integrated rule are the benefits from VOC emission reductions. However, data limitations prevent a complete quantification of all categories of benefits attributable to VOC emission reductions. Since lack of data prevent all VOC benefit categories from being monetized, a direct comparison of benefits to costs may not be helpful in determining the desirable regulatory alternative. However, an assessment of the incremental cost-effectiveness of VOC emission controls and a comparison of these estimates to a policy-established benchmark may be useful. The VOC cost-effectiveness analysis will represent the cost of the air emission controls relative to the expected VOC emission reductions attributable to the controls.

Although the costs used in this analysis accurately represent the cost of MACT requirements, the use of a VOC cost-effectiveness analysis may underestimate the benefits of these requirements. In particular, the VOC cost-effectiveness analysis ignores the benefit of HAP emission reductions and BOD effluent reductions that these controls will also achieve. The result of the "jointness" of the benefits of the MACT requirements is that the VOC cost-effectiveness values presented in this analysis will be overestimated.

It is difficult to estimate the magnitude of the VOC cost-effectiveness overestimation. The Agency has estimated a range of monetized values for the benefits of reduced annual cancer risk attributable to reduced carcinogenic HAP emissions. The total annual benefits of the annual cancer risk reductions has been estimated to range from $0.78 million to $4.5 million (1991 dollars) depending on the regulatory alternative examined. If the VOC cost-effectiveness calculation were to account for this benefit category, the magnitude of the VOC cost-effectiveness overestimation could be characterized as being relatively small. However, the Agency has also estimated the reductions in exposure attributable to reductions in emissions of non-carcinogenic HAPs. Unfortunately, lack of data prevent these health benefits from being monetized. The effect of this lack of valuation prevents a conclusion from being drawn regarding the magnitude of the benefits attributable to non-carcinogenic HAP emission reductions. Therefore, the Agency cannot confidently characterize the magnitude of the VOC cost-effectiveness overestimation.

The incremental VOC cost-effectiveness analysis begins with regulatory alternative 23, which includes the MACT floor level of control. The incremental cost-effectiveness of the MACT floor requirements, averaged across multiple emission points, above the baseline level of control is approximately $350/Mg. In other words, the average cost of reducing each Mg of VOC emissions at the MACT floor level of control is $350.

The most stringent level of control that was identified was regulatory alternative 24. The incremental VOC cost-effectiveness of going from regulatory alternative 23 to regulatory alternative 24 is approximately $1,650/Mg.

The last regulatory alternative that was identified was regulatory alternative 25. The incremental VOC cost-effectiveness of implementing regulatory alternative 25 is approximately $74,040/Mg.

One approach for analyzing the significance of these incremental cost-effectiveness values is to compare these values to a policy-based cost-effectiveness guidance developed by the Agency in 1985. The policy-based VOC cost-effectiveness value for new source performance standards (intended to address VOV emissions nationally) was established at $1,570/Mg (1991$). If the majority of the benefits of the MACT requirements are expected to be derived from VOC emission reductions, using policy-based VOC cost-effectiveness value to determine the desirable regulatory alternative to implement may be a reasonable approach.

This incremental VOC cost-effectiveness analysis reveals that regulatory alternative 23 can be justified as a desirable option since the incremental VOC cost-effectiveness of implementing regulatory alternative 23 is much less than the policy-based benchmark value. This analysis also indicates that regulatory alternative 25 is a clearly undesirable option since the incremental cost-effectiveness of this regulatory alternative is much greater than the established benchmark value. The conclusion about the desirability of implementing regulatory alternative 24 is less clear. The incremental cost-effectiveness of implementing regulatory alternative 23 is approximately $1,650/Mg. This value is slightly greater than the $1,570/Mg benchmark value. However, as noted earlier, this VOC cost-effectiveness value ignores the additional benefits of HAP and BOD control. If we take into account the overestimation of the VOC cost-effectiveness value due to the omission of the HAP and BOD benefits, the conclusion of the incremental cost-effectiveness analysis may be that regulatory alternative 24 may be a desirable regulatory alternative.

Although the incremental VOC cost-effectiveness of regulatory alternative 23 is significantly less than the established benchmark, the Agency has little data to draw conclusions regarding the net benefits of the MACT portion of any of the regulatory alternatives presented in this analysis. The purpose of this incremental VOC cost-effectiveness analysis is to provide the Agency with

an additional method for evaluating the relative merits of the various regulatory alternatives.

C. Sludge, Energy, and Other Environmental Impacts

1. Impact of Integrated Rule on Sludge

a. Types of Impacts. The technology basis for BAT in the integrated regulatory alternative for dissolving sulfite, dissolving kraft, papergrade sulfite, and papergrade kraft subcategories includes process changes. The impact of BAT on these subcategories was examined from a multi-media perspective, including the impacts on sludge. With respect to sludge, the Agency focused on pollution prevention as a basis for reducing the mass and concentration of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) and 2,3,7,8-tetrachlorodibenzofuran (TCDF).

Reductions in the mass loadings and concentrations of TCDD and TCDF will impact the paper industry and society as a whole in several ways. Reductions in TCDD and TCDF will improve sludge quality and make disposal. An Agency analysis shows that land application is generally the least expensive method for disposing sludge. Greater use of land application will enable mills in these subcategories to achieve cost savings in sludge management. For more details, see "Regulatory Impact Assessment for Land Application of Bleached Pulp and Paper Mill Wastewater Treatment Sludges."

b. Calculation of Sludge Quality Impacts. To estimate the effect of the integrated regulatory alternative on sludge quality in terms of TCDD and TCDF mass loadings and concentrations, the Agency first estimated baseline levels of TCDD and TCDF for all mills subject to BAT for bleach plant effluent. Next, these baseline levels were compared to estimates of the levels of TCDD and TCDF in sludge following the implementation of BAT, with the difference representing the pollutant reduction. For a description of the methodology used to calculate reductions, see "Economic Analysis of Impacts of Integrated Air/Water Regulations for the Pulp and Paper Industry on Disposal of Wastewater Sludge."

For each facility, with few exceptions, the most recent data from any of the four data sources (the 104 Mill Study, the Short-term Study, the Long-term Study, and Self Monitoring Data as reported on the 1990 Census of Pulp, Paper, and Paperboard Manufacturing Facilities) were used to describe a particular facility's baseline TCDD and TCDF concentration levels. The data bases cover the period from January 1, 1989 through December 31, 1992. Mass loadings were calculated using production-normalized loading factors. In some cases, data were transferred from facilities with similar technology and fiber furnish.

To estimate attainable TCDD and TCDF loadings and concentrations under various integrated regulatory alternatives, the Agency first identified the existing facility or group of facilities and data sources that were judged to be representative of the achievable levels under each of the various integrated regulatory alternatives. Pollutant concentrations and load factors from these representative facilities were used to calculate the average TCDD/TCDF concentrations and loadings for each facility.

Overall, for each of the listed subcategories, the proposed integrated regulatory alternative is estimated to reduce average loadings of TCDD and TCDF as follows: for papergrade kraft, 111.1 and 602.6 grams/year, for papergrade sulfite, 2.0 and 23.4 grams/year, for dissolving kraft, 0.1 and 0.9 grams/year, and for dissolving sulfite, 1.6 and 3.5 grams/year, respectively. Many of the assumptions used in the water quality assessment (section XI.B) were also used here. Sensitivity analyses to test several of these assumptions indicate that the loading and concentration results for sludge were not appreciably different when the assumptions regarding non-detected data are varied.

c. Economic Benefits of TCDD and TCDF Reduction in Sludge. The Agency considered the benefits associated with reductions of TCDD and TCDF levels in sludge with respect to cost savings to mills for sludge management, cost savings to mills from avoiding potential future rulemakings, and from the reduction in risk to wildlife from reduced exposure to TCDD and TCDF in land applied sludges.

(1) Estimation of Cost Savings from Land Application. Currently, a small percentage of mills subject to BAT land apply their sludges; however, the potential for higher levels of participation exists. Comments on the proposed rule for land application of sludge indicated that permitting and siting of landfills, an alternative sludge management technique, is quite difficult in some regions. Additionally, land application is generally less expensive than alternative disposal methods, and mills appear interested in making beneficial use of sludge.

Barriers to land application that currently exist include state regulatory requirements pertaining to TCDD and TCDF levels and public resistance to using dioxin-contaminated sludge. By reducing TCDD and TCDF levels in sludge, the integrated regulatory alternative will overcome some of these barriers and mills will be able to take advantage of cost savings offered by this disposal option.

The methodology for estimating cost savings from land application due to BAT process changes is described in the document entitled "Economic Analysis of Impacts of Integrated Air/Water Regulations for the Pulp and Paper Industry on Disposal of Wastewater Sludge". In general, the analysis focuses on 76 of the BAT mills that currently dispose of sludge in landfills or surface impoundments. Under several scenarios, the Agency assumed that land application becomes a viable disposal option when TCDD levels become 25 ppt, 10 ppt, 3 ppt, and 1 ppt. Therefore, under a regulatory option that is predicted to lower TCDD concentrations to that level, it is assumed that mills are able to take advantage of disposal cost savings from land application. Mills that are currently land applying or disposing of their sludge through incineration are assumed to continue.

In the analysis, mills that currently utilize landfills and surface impoundments will do so until they reach their existing capacity. Mills are then assumed to use land application to dispose their sludge. The sludge diverted to land application is assumed to be distributed among the various types of land application according to the current share of land-applied sludge (based upon the 1990 National Census). Cost savings associated with switching from sludge disposal to land application is calculated using the difference in average per-ton costs between land application and the appropriate disposal methods. Utilizing this approach, the estimated annualized sum of the present value savings ranges from $6 to $53 million depending upon which TCDD level land application is expected to occur. Under the proposed rule for land application of sludge, 10 ppt was considered to be the permissible level for land application to occur. At this level, the estimated annualized cost savings is $53 million.

(2) Estimation of Cost Savings Associated with Avoided Potential Rulemakings. Reductions in TCDD and TCDF levels may affect potential future regulatory activities under the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act (TSCA). EPA believes that it will be more efficient and less costly to the regulated community to address

concerns regarding TCDD and TCDF levels in the sludge through this integrated rule as opposed to several separate rulemakings.

Under the proposed consent decree, EDF v. Reilly, No. 89–0598, the Agency may be required to make a listing determination for pulp and paper sludge. Should the listing determination lead to a hazardous waste finding, then generators, disposers, and transporters of pulp sludge would become subject to a wide range of regulatory requirements. If the integrated rulemaking reduces TCDD and TCDF concentrations to levels where a hazardous waste finding would not be made, the potential regulatory costs will be reduced or avoided.

If the Agency did not implement the integrated rule, and if current levels of TCDD and TCDF in the sludge are high enough to result in a hazardous waste finding, the Agency would be required to set treatment standards for the waste to ensure protection of human health and the environment. These standards, including compliance with the land disposal restriction program, could result in requirements for reductions of TCDD and TCDF in the waste that would most likely be at least as expensive as the BAT and MACT standards required in the integrated rule. Currently thermal destruction is the only RCRA approved technology for treatment of dioxin wastes. The final Regulatory Impact Analysis of Land Disposal Restrictions for newly-listed wastes (1992) indicated that typical costs for thermal destruction were cited as $2,300 per ton. Depending upon the amount of sludge that will be subject to RCRA listing, these costs could be substantial.

In addition, if process changes are not sufficient to reduce TCDD and TCDF levels and if mills choose on-site management and RCRA permitting, a hazardous waste listing could expose mills to the corrective action provisions of RCRA. Based on prediction of corrective action costs, the average reported costs of RCRA facility-wide corrective action is $7.2 million per facility. For more details, see "Draft Regulatory Impact Analysis for the Final Rulemaking on Corrective Action for Solid Waste Management Units," March 1993. If costs of corrective action would be similar for pulp and paper mills, and only 10% of the mills subject to BAT required corrective action, potential costs could be $72 million. If 50% of the existing landfills and surface impoundments required corrective action, these costs could be $374 million, and if 100% of landfills and surface impoundments were subject to corrective action, the costs could be $749 million.

In addition to costs associated with potential RCRA rulemakings, industry may also be subject to costs associated with potential TSCA rulemakings. The Agency will revisit its proposed rule on the land application of pulp and paper sludge (56 FR 21802, May 10, 1991) following the promulgation of the integrated rule. At that time the Agency will consider the impacts of the integrated rulemaking on the TCDD and TCDF levels in sludge when land applied, and may determine to proceed with a final rule.

The regulatory impact analysis for the proposed rule on land application of pulp and paper mill sludge estimated the costs of that rulemaking to be $5.4 million per year. In the absence of sufficient improvements in the TCDD and TCDF concentrations in sludge, these costs could be incurred as a consequence of a final TSCA ruling.

The cost savings associated with sludge management and with avoiding potential RCRA and TSCA rulemakings have not been subtracted directly from the compliance costs of the regulations proposed in this notice, however, the Agency will consider doing so with further refinement of the estimates. EPA invites comments on its estimate of potential comments, including supporting data.

2. Energy Impacts

According to the Department of Energy, the pulp and paper industry is the fourth largest industrial user of energy, accounting for 9.9 percent of total U.S. industrial energy consumption (2.4 quadrillion BTUs in 1990). Much of the energy used by the industry is produced on-site in power and recovery boilers. In 1990, the sources of energy used by the industry included cooking liquor fuel (40.2 percent), fossil fuels (37.1 percent), bark and wood fuel (15.5 percent), and purchased electricity (7.2 percent). The fossil fuels used include natural gas, fuel oil, and coal.

Compliance with the proposed regulations is anticipated to increase the industry's energy usage by less than one percent (17.6 trillion BTUs/yr). Among the reasons for this increase are the energy requirements for process equipment upgrades for compliance with BAT and PSES, treatment system upgrades for compliance with BPT, and equipment upgrades for compliance with MACT. However, compliance with BMP and BAT is anticipated to partially offset the increase in energy usage industry-wide because of the energy value of recovered cooking liquor solids. Table XI.C–1 summarizes the estimated change in the use of energy associated with the proposed integrated rule. For more details, see the water development document and the background information document.

TABLE XI.C–1.—CHANGES IN ENERGY CONSUMPTION

Regulation	Source of energy use	Energy use change (trillion BTU/yr)
BAT and PSES.	Pulping and bleaching process modifications.	4.1
	Recovery of cooking liquor solids.	−7.8
BPT	Wastewater treatment system upgrades.	1.0
BMP	Recovery of cooking liquor solids.	−0.3
MACT	Equipment upgrades, increased steam generation and auxiliary fuels.	20.6
Total	.....	17.6

Additional energy requirements for process equipment upgrades for BAT and PSES mainly result from expansion of chlorine dioxide generator capacity and additional pumps for application of oxygen and/or hydrogen peroxide in the bleach plant. Additional energy requirements for process equipment for compliance with BPT mainly result from increased aeration in the treatment system. Additional energy requirements for equipment upgrades for MACT result from the electricity needed to power fans and blowers to transport vent streams, natural gas needed to generate additional steam for steam stripping of pulping wastewaters, and natural gas as an auxiliary fuel for incinerators for bleach plant vent streams.

Implementing BMP and complying with BAT will increase the recovery of cooking liquor solids. The energy value of cooking liquor, recovered from fewer spills and from extended oxygen delignification and/or extended cooking, largely offsets the increased energy demand of the additional process equipment.

3. Other Secondary Impacts

There are several secondary impacts associated with the proposed integrated rule that have not been discussed in previous sections of this preamble. Among the most important of these are changes in the volume of water discharged and the mass of wastewater treatment sludge generated, and changes

in the quantities of chemicals used at bleaching mills.

Compliance with BPT is anticipated to require a reduction in the volume of wastewater discharged at many facilities. This reduction will likely come from a combination of in-process modifications resulting in less wastewater generated as well as installation of flow control equipment at some mills. The estimated reduction in water usage for the industry is 1.21 billion liters per year. Compliance with BPT/BCT is anticipated to increase the mass of wastewater treatment sludge generated by 52,000 metric tons/yr, mostly because of increased solids removal at facilities with activated sludge wastewater treatment systems.

Compliance with BAT will also affect the quantity of bleaching chemicals used in the industry. Quantities of hypochlorite, chlorine, and sodium hydroxide are expected to decrease while quantities of chlorine dioxide, oxygen, hydrogen peroxide, sodium hydroxide, and ozone are expected to increase. However, overall chemical usage in the industry will decline resulting in cost savings.

XII. Administrative Requirements

A. Changes in Format and Name

Today, EPA is proposing to incorporate part 431, the builders' paper and board mills point source category, into part 430, the pulp, paper, and paperboard point source category. The builders' paper and board mills point source category consists of only one subpart, subpart A, in part 431 in the current subcategorization scheme. The Agency is proposing to move this subpart and include it in subpart J of part 430 in the proposed subcategorization scheme (which is discussed in section IX.A).

EPA is also proposing to consolidate the titles of the two point source categories into a new title for part 430. The title is proposed to be changed from "pulp, paper, and paperboard and the builders' paper and board mills point source categories" to "pulp, paper, and paperboard point source category."

B. Docket and Public Record

The Record for this rulemaking is available for public review at EPA Headquarters, 401 M Street SW, Washington, DC 20460. The Record supporting the effluent limitations guidelines in part 430 is located in the Office of Water Docket, room L102 (in the basement of Waterside Mall). The Docket is staffed by an EPA contractor, Labat-Anderson, Inc., and interested parties are encouraged to call for an appointment. The telephone number for the Water Docket is (202) 260–3027.

EPA notes that many documents in the record supporting these proposed rules have been claimed as confidential business information and, therefore, are not included in the record that is available to the public in the Air and Water Dockets. To support the rulemaking, EPA is presenting certain information in aggregated form or is masking mill identities to preserve confidentiality claims. Further, the Agency has withheld from disclosure some data not claimed as confidential business information because release of this information could indirectly reveal information claimed to be confidential.

The Record supporting the national emission standards for hazardous air pollutants in part 63 is located in Room M1500 at the same address, telephone number (202) 260–7548. The EPA information regulation (40 CFR part 2) provides that a reasonable fee may be charged for photocopying.

C. Clean Water Act Procedural Requirements

As required by the Clean Water Act, EPA will conduct a public hearing on the pretreatment standards portion of the proposed rule. The location and time of this public hearing will be announced in a future notice.

D. Clean Air Act Procedural Requirements

In accordance with Section 117 of the CAA, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including health, economic, and technological issues, as well as on the proposed test Method 308.

This regulation will be reviewed eight years from the date of promulgation. This review will include an assessment of such factors as an evaluation of the residual health risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

E. Executive Order 12866

Executive Order 12866 requires EPA and other agencies to assess the potential costs and benefits of all significant regulatory actions. Significant regulatory actions are those that impose a cost on the economy of $100 million or more annually or have certain other regulatory, policy, or economic impacts. Today's rule meets the criteria of a significant regulatory action as set forth in section 3(f) of the Executive Order. The regulatory analysis for this proposed rule is presented in "Regulatory Impact Assessment of Proposed Effluent Guidelines and NESHAP for the Pulp, Paper, and Paperboard Industry." This analysis (referred to as the RIA) is summarized in section XI.B. Today's proposed rule and the RIA were submitted to the Office of Management and Budget for review.

Briefly, the RIA assesses both the costs and benefits to society of the proposed rules. The RIA analyzes the effect of current discharges and emissions and the benefits associated with reducing those environmental releases as a result of compliance with the proposed rules. Three classes of benefits are analyzed: non-quantified and non-monetized benefits, quantified and non-monetized benefits, and quantified and monetized benefits. The non-quantified, non-monetized benefits include improvements in recreational fishing, improved aesthetic quality of waters, and benefits to wildlife and to threatened or endangered species. The quantified, non-monetized benefits include potential benefits to human health such as the avoidance of potential cancer cases and benefits to aquatic life such as a reduced number of exceedances of water quality criteria. The monetized benefits also focus on human health and aquatic life impacts. The Agency estimates that the benefits of today's proposed rules range from $160 million to $987 million.

The social costs of the proposed regulation include both monetary and non-monetary outlays made by society. Monetary outlays include private sector compliance costs, government administrative costs, and the costs of reallocating displaced workers. Non-monetary outlays include losses in consumers' and producers' surpluses, discomfort or inconvenience, loss of time, and a slowdown in the rate of innovation. The Agency's estimate of social costs includes values for consumer and producer surplus losses, government administrative costs and worker dislocation costs, and is $948 million.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et. seq., requires EPA and other agencies to prepare an initial regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. EPA projects that today's

proposed rule, if promulgated, could affect small businesses. The initial regulatory flexibility analysis for these proposed rules is incorporated into the economic impact analysis and is discussed in section XI.B. Briefly, the small entity analysis estimates the economic impacts of the new requirements on small mills and small companies and describes the potential disparate impacts between the groups of large and small manufacturers. The analysis also presents the Agency's consideration of alternatives that might minimize the impacts on small entities.

The reasons why EPA is proposing this rule are presented in sections IV and V. The legal basis for today's rule is presented in section III. The number of small entities and the approach for defining small entities are summarized in section XI.B and detailed in the economic impact analysis report for this rulemaking. In short, the Agency does not have evidence that small businesses are disproportionately impacted by the proposed rule. Reporting and other compliance requirements are summarized in sections IX.I and X.J and detailed in the technical water development document and the background information document. While the Agency has not identified any duplicative, overlapping, or conflicting Federal rules, a discussion of other related rulemakings is presented in sections V.C and XI.C.

The Agency solicits comment on the definition of small entity used in this analysis, the analytical procedures for assessing impacts on small entities, and the opportunities to minimize the impacts on small entities.

G. Paperwork Reduction Act

The proposed effluent guidelines and standards contain no information collection activities and, therefore, no information collection request (ICR) has been submitted to the Office of Management and Budget (OMB) for review and approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

OMB has approved the existing information collection requirements associated with NPDES discharge permit applications under the provisions of the Paperwork Reduction Act and has assigned OMB control number 2040–0086.

The collection of information required for NPDES discharge permit applications has an estimated reporting burden averaging 12 hours per response and an estimated annual recordkeeping burden averaging two hours per respondent. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The information collection requirements for the proposed NESHAP have been submitted for approval to the Office of Management and Budget (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. 1657.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260–2740.

The public recordkeeping and reporting burden for this collection of information is estimated to average 1,461 hours (or to vary from 923 to 1,797 hours) the first year. This recordkeeping and reporting burden is estimated to average 362 hours (or to vary from 338 to 439 hours) annually, thereafter. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M St., SW.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

XIII. Solicitation of Data and Comments

A. Introduction and General Solicitation

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address any perceived deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data.

The Agency invites all parties to coordinate their data collection activities with EPA to facilitate mutually beneficial and cost-effective data submissions. EPA is interested in participating in study plans, data collection and documentation. Please refer to the "For Further Information" section at the beginning of this preamble for technical contacts at EPA.

B. Specific Data and Comment Solicitations

EPA has solicited comments and data on many individual topics throughout this preamble. The Agency incorporates each and every such solicitation here, and reiterates its interest in receiving data and comments on the issues addressed by those solicitations. In addition, EPA particularly requests comments and data on the following issues:

1. Technology Basis for BAT Limits for Bleached Papergrade Kraft and Soda Subcategory

The Agency is proposing BAT effluent limitations for the bleached papergrade kraft and soda subcategory based on oxygen delignification and complete (100 percent) substitution of chlorine dioxide for elemental chlorine. The Agency solicits comments and data on all aspects of all options considered for the bleached papergrade kraft and soda subcategory, as well as on any options not considered.

During the development of these proposed regulations, industry representatives commented that the costs associated with installing oxygen delignification are not justified by the corresponding effluent reduction benefits, and recommended the use of high levels of substitution without oxygen delignification. The Agency particularly solicits comments and relevant data on the process and product quality improvements, operating costs (and cost savings), and effluent reduction benefits attributable to oxygen delignification.

2. Technology Basis for BAT Limits for Dissolving Kraft Subcategory

EPA is proposing BAT effluent limitations for the dissolving kraft subcategory based on transfer of technology from the bleached papergrade kraft subcategory. The technology basis includes elimination of hypochlorite, oxygen delignification, and 70 percent substitution of chlorine dioxide for elemental chlorine. The Agency solicits comments and data on all aspects of all options considered for the dissolving kraft subcategory, as well as on any options not considered.

During the development of these proposed rules, EPA received comments that none of the three mills in this subcategory currently use this technology, that use of hypochlorite is required to achieve the product quality requirements of customers for these dissolving kraft pulp products, and that certain components of the technology (e.g., extended cooking) are not

applicable in producing the dissolving kraft products. EPA solicits additional trial data from individual mills demonstrating that products can (or cannot) be made with oxygen delignification.

Trials to date for hypochlorite substitutes have not been successful in maintaining stringent quality specifications (e.g., degree of polymerization, intrinsic viscosity, etc.) for certain products as required in customer contracts. Limited and preliminary trial data have been received by EPA indicating substantial reductions in use of hypochlorite while maintaining product quality, and reductions in pollutant parameters of concern such as chloroform. Further qualification trials with customers of any changed dissolving pulp characteristics were reported to be required and take from one to three years to successfully complete through revised product specifications in contracts. The Agency solicits additional trial data of any scale (i. e., bench, pilot, or mill-scale trials with data for product quality parameters, wastewater parameter and pollutant data for process filtrates, air emissions data) for alternative processes beyond existing technology to demonstrate reduced use of hypochlorite and the use of other process technologies (e.g., oxygen delignification), and the reductions that can be achieved in pollutants of concern.

3. Technology Basis for BAT Limits for Dissolving Sulfite Subcategory

EPA is proposing effluent limits for the dissolving sulfite subcategory based on oxygen delignification followed by complete substitution of elemental chlorine with chlorine-dioxide. The Agency solicits comments and data on all aspects of all options considered for the dissolving sulfite subcategory, as well as on any options not considered.

EPA has received comments and limited trial data from individual mills on the feasibility of TCF processes and the dissolving grade products which can and cannot be made by these processes. Commenters have asserted that the European mill on which EPA's option 2 is based is not representative of U.S. mills, because the mill uses a beech furnish rather than those furnishes typical of U.S. sulfite mills. Industry representatives also claim that the European mill uses a different process than that used by U.S. mills, does not produce the full range of products, including high quality acetate grade dissolving pulps, and transfers its dissolving pulp to an on-site rayon plant that is asserted not to have the same stringent product quality requirements of customers served by U.S. mills. The Agency solicits additional data from individual mills regarding those dissolving grade sulfite products demonstrating unacceptable product quality, with associated wastewater and air emissions data. The Agency solicits additional data from individual mills on those products that can be made by TCF processes. For those products that cannot be made by TCF processes, the Agency solicits additional trial data of any scale (i. e., bench, pilot, or mill-scale trials with data for product quality parameters, wastewater parameter and individual pollutant data for process filtrates, hazardous air pollutant emissions data) for alternative processes beyond existing technology, including reductions in hypochlorite use, to demonstrate the reductions that *can* be achieved in air and wastewater pollutants of concern.

4. Technology Basis for BAT Limits for Papergrade Sulfite Subcategory

EPA is proposing BAT effluent limitations for the papergrade sulfite subcategory on TCF technology. The Agency solicits comment and data on all aspects of all options considered for the papergrade sulfite subcategory, as well as on any options not considered.

During the development of these proposed rules, the Agency received comments and some trial data from individual mills concerning the feasibility of TCF processes and the papergrade products that can and cannot be made by these processes. Commenters asserted that certain processes (e.g., ammonium-based) yielding specific products and specifications, and certain specialty papers and pulps (e.g., photographic papers and plastic molding pulps) have not yet been made by the TCF processes with quality parameters acceptable to mill customers. Many of the assertions made by individual companies have yet to be supported with mill trial and wastewater analytical data for pollutants of concern. The Agency solicits that supporting data; without it, the assertions cannot be evaluated.

The Agency also solicits additional data regarding papergrade products that can be made by TCF, including:

- Trial data of any scale (i.e., bench, pilot, or mill-scale trials);
- Process descriptions (e.g., bleaching sequence, chemical application rates, etc.);
- Pulp flow rates;
- Product quality parameters (e.g., brightness, alpha cellulose content, etc.);
- Wastewater parameter and pollutant data (with analytical methods specified, and QA/QC); and
- Hazardous air pollutants in process filtrates and air emissions. The Agency solicits comments and data on those options considered and not selected for the papergrade sulfite subcategory, and on any options the Agency did not consider.

5. TCF Bleaching—Request for Analytical Data for TCF Processes

The Agency currently has limited data on the performance of TCF processes (see section IX.E.3, subcategories D and E). The industry trade association and specific companies have made assertions that TCF technologies are not being used domestically, and are also not capable of making many products made by U.S. mills. However, environmental groups have argued that EPA should propose BAT effluent limitations based on TCF technology. In light of the foregoing, the Agency solicits TCF process technology performance data and process details for all pollutants of concern, including metals and other organic pollutants, in all media (air, wastewater, sludge). These data are critical to meaningful evaluation of TCF technologies. The Agency solicits comments on the proposal not to base BAT effluent limitations on TCF technology for bleached papergrade kraft, dissolving sulfite and dissolving kraft mills at this time.

6. Alternative Limits for TCF Processes

The Agency also solicits comments on the proposed alternative limits for TCF mills in the papergrade kraft, dissolving sulfite and dissolving kraft subcategories. EPA solicits comments on data on whether these alternative limits provide meaningful incentives, whether such incentives are appropriate, and recommendations for any additional or different incentives.

7. Subcategorization

a. EPA's Proposed Consolidation of Subcategories. EPA today proposes to consolidate some of the subcategories for the effluent guidelines covering this industry. During development of these proposed regulations, representatives commented that mills within each of EPA's proposed consolidated subcategories show different raw waste loads, wastewater treatment costs, and achievability of end-of-pipe effluent limitations for conventional pollutants. Three examples of specific subcategorization concerns are: (1) Industry representatives have commented that the bleached

papergrade kraft and soda subcategory should be divided to distinguish between bleached papergrade kraft and soda mills; (2) Industry representatives have requested that the dissolving sulfite pulp subcategory be further subdivided to distinguish between different grades of dissolving sulfite pulp; and (3) The Agency has proposed to divide the production of paper and paperboard from purchased pulp into two subcategories: (i) Fine and Lightweight Papers from Purchased Pulp, and (ii) Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp even though the processes used by these two subcategories are similar and the production normalized BOD_5 effluent loadings are similar. The Agency solicits detailed comments and data, including cost and equipment design data, on each of the foregoing concerns. In addition, the Agency solicits comments and data on whether any subcategories proposed today should be divided into smaller subcategories, and whether any subcategories proposed today should be combined to form larger subcategories.

b. Alternative Approaches to Subcategorization. During development of these proposed regulations, representatives of environmental groups suggested that EPA subcategorize the industry based upon the types of furnishes used at individual mills. Such an approach might provide greater protection of the environment, since mills using hardwood furnishes would in general be able to meet more stringent effluent limitations than these using softwood furnishes. However, such an approach might be difficult to administer, since many mills use both hardwood and softwood furnishes and vary the amounts of these furnishes over time. Furthermore, EPA lacks complete data concerning the limits that could be achieved by mills using exclusively hardwoods or softwoods, and on the mix of these furnishes used at many mills. EPA solicits comments on whether the subcategorization in the final rule should be based upon the type of furnish used at a mill, as well as data to support such comments.

In addition, during the development of the proposed rules, EPA received suggestions that subcategorization based on product type might be appropriate, in particular in those subcategories where producers have expressed concern about their ability to make some but not all products with EPA's proposed BAT technology bases. EPA solicits comments and data on whether the subcategorization in the final rule should be based on products.

8. In-Plant Limitations on Pollutants in Wastewaters

EPA is today proposing in-plant limitations on certain pollutants (e.g., dioxin, furan, certain chlorinated phenolics) found at the end-of-pipe at levels below the current analytical limits of detection. The Agency is also proposing in-plant monitoring of these and other pollutants. The Agency traditionally has set technology-based performance standards at the point of discharge to waters of the United States or the sewer system. However, application of the process technologies that serve as the basis for BAT limitations result in measurements for certain pollutants near the limits of detection even in internal, smaller-volume bleach plant wastewaters. Therefore, measurement at the end-of-pipe, after dilution of the bleach plant wastewaters, does not provide meaningful analytical data on the performance of these process technologies.

During development of these proposed regulations, industry representatives asserted that limitations on internal streams may reduce their flexibility in compliance and require installation of specific process technologies. Based upon available data, the Agency believes that mills will retain considerable flexibility in choosing specific compliance strategies that may be implemented at individual mills, including available process technologies. EPA solicits comments and data on whether end-of-pipe limits could practically or feasibly be used to measure the performance of process technologies that form the basis of EPA's proposed BAT, PSES, NSPS and PSNS regulations. The Agency further solicits comments and specific supporting data on all aspects of the proposal to set limitations on internal bleach plant streams.

9. BAT for Secondary Fiber Deink Mills and Other Bleaching Pulp Mills for Which BAT Effluent Limits Are Not Proposed Today

A number of mills that do not chemically pulp or that do not use a virgin wood furnish do bleach their pulp with chlorine or chlorine-derivatives. Data received from secondary fiber deink mills, secondary fiber non-deink mills, and non-wood chemical pulp mills indicate the discharge of dioxins, PCBs, and chloroform. The Agency solicits additional data on individual mills on current bleaching practices and sequences, chemical application rates, wastewater discharges, and air emissions from these mills. The Agency solicits comments and trial data on the feasibility of eliminating chlorine and chlorine derivatives from the bleaching process at these mills.

10. PCB Data

As part of the Agency's review of subcategories for which BAT is not being proposed at this time, the Agency found that several secondary fiber mills were discharging PCBs at levels ranging from less than 0.1 ppb to more than 60 ppb during the period 1985–1990. Most of the higher values were recorded during the earlier part of this period. The Agency also has effluent data for one secondary fiber deink mill showing PCB concentrations consistently not detected. The Agency is considering whether to establish effluent limitations guidelines and standards for PCBs for this industry as part of its section 304(m) planning process (see section IX.E.3.a), and solicits comment on this approach and on PCB data from 1990 to the present from mills in all subcategories, and specifically secondary fiber deink and non-deink mills.

11. Non-Wood Furnish Mills

A small number of mills produce pulp from furnishes other than wood, such as cotton, hemp, or bagasse. The Agency solicits data on discharges from these mills, particularly wastewater from bleach plants, and on the feasibility of eliminating chlorine and chlorine derivatives from the bleaching processes at these mills.

The Agency also requests information and data on the feasibility of implementing BMPs in non-wood chemical pulp mills, as well as COD data for these mills and any relationship these data may bear to the non-chlorinated constituents generated in pulping operations and contained in pulping liquor spills.

12. Limitations Based Upon Softwood Furnish vs. Hardwood Furnish

Softwood fibers contain substantially greater quantities of lignin than hardwood fibers. In general, this means that discharges of pollutants derived from lignin are higher for mills that pulp and subsequently bleach softwood furnishes than those that use hardwood furnishes. In today's proposed regulations, EPA based most of the BAT effluent limitations on the use of softwood furnishes, since mills that pulp and subsequently bleach hardwood furnishes should be able to meet those limitations. One exception in the long-term study noted by the Agency is the generation and discharge

of trichlorosyringol at mills pulping hardwoods. For this pollutant, the Agency has established the proposed effluent limitations based upon the hardwood data rather than the softwood data, which showed non-detects. The Agency solicits comments on this approach.

13. Validity of Volatiles Samples and Laboratory Contamination

Methylene chloride analyses were highly variable during the long-term sampling program. Industry representatives believe that this variability is due to field and laboratory contamination of the samples, that the data is unrepresentative and, therefore, that effluent limitations for this pollutant should not be established. The Agency determined that while there were data sets that demonstrated contamination (these data sets were excluded from the data base), the patterns of variability for remaining samples do not solely reflect laboratory contamination. There is concern that if the levels of these pollutants cannot be accurately determined during regulatory development, the pollutant would not be appropriately regulated and, as a result, it may be difficult for mills to demonstrate compliance. The Agency requests comments on this concern.

14. Scientific Validity of Analytic Method for AOX/Right-Censored Data

During the first phase of the long-term study, analysis for AOX was performed using disposable carbon columns. The majority of the data that resulted was qualified as being greater than the value recorded. During the second phase of the long-term study, analysis for AOX was performed using hand-packed columns. Most of the resulting values did not have to be qualified as "greater than." The Agency has used most of the data for both phases, except when there was sufficient reason to exclude it based on method performance criteria. In developing the limitations, EPA used a statistical procedure that modelled the censoring in the data as well as measurements associated with "exact" values. The Agency solicits comments on the use of right-censored data, and on the analytical method for AOX (Method 1650) and its method performance criteria.

15. Role of Market Demand and Government Procurement Practices

On October 20, 1993, President Clinton issued Executive Order 12873, which directs federal government agencies to purchase paper made using environmentally-friendly technologies. Revisions in the brightness specifications and standards for federal goverment paper purchases, which are discussed in the Executive Order, may likely provide additional incentives for producing paper using TCF technologies. The Agency solicits comments on the roles that market demand and federal government procurement practices (e.g., paper specifications and uses) may play both in the evolution of TCF and other process technologies.

16. Zero Discharge as Basis for Secondary Fiber Subcategory NSPS

The Agency believes that some non-deink secondary fiber mills can operate without discharging effluent if they are designed to do so initially. (This is based upon current industry practices as reflected by responses to the 1990 Census). However, EPA's information is incomplete concerning the ability of mills in this subcategory other than those making paperboard, roofing paper or builders felt to achieve zero discharge. Furthermore, information available to the Agency suggests that existing mills cannot alter discharging practices to operate under zero discharge conditions without incurring excessive costs and, therefore, BAT limitations based on zero discharge of wastewater may not be economically achievable. As a result, the Agency is proposing NSPS based on zero discharge for only a portion of this subcategory, and is not proposing BAT limits for this subcategory at this time. The Agency solicits comments and data on the foregoing, as well as on the technical feasibility and cost implications of zero discharge for new and existing mills in this subcategory, the impact on sludge generation and disposal costs, and whether disposal of dilute sludges or periodic wastewater discharges, infrequent though they may be, are necessary to maintain a complete recycle system at these mills.

17. Revision of BPT

The Clean Water Act defines BPT as the best practicable control technology currently available. The Agency is proposing to revise BPT effluent limitations for mills in this industry, based in most cases on the average of the best 50 percent of the mills in each effluent guideline subcategory. EPA invites comment on whether the Agency should revise the current BPT effluent limitations for this industry. During the development of these proposed regulations, industry representatives argued that EPA lacks the authority to revise promulgated BPT effluent limitations guidelines and that the current BPT effluent limitations, which were promulgated in three phases in 1974, 1977, and 1982, should remain forever fixed. Representatives of environmental groups offered a different view—that EPA is required to revise BPT and other guidelines where new data indicate that existing limits are out of date. EPA solicits comment on whether the Agency is either legally proscribed from, or legally required to, revise BPT effluent limitations guidelines. EPA further solicits comment on the merits of revising BPT. EPA solicits data on costs, effluent reduction benefits, water quality benefits and any other factors that may be related to the proposed BPT and BCT revisions.

18. Cost of Oxygen Delignification

During development of these proposed regulations, industry representatives submitted estimates of the cost of retrofitting existing mills with oxygen delignification equipment that far exceeded EPA's estimates. One of the primary differences in the cost analyses by the industry and EPA appears to be industry's assumption that replacement of recovery boilers and related recovery cycle equipment would be required at a significant number of mills. The Agency believes that upgrades of existing recovery boiler capacity will be sufficient to accommodate the marginal increases in solids loadings from oxygen delignification and other technologies that are part of BAT. The costs of these upgrades have been included in EPA's cost estimate. Decisions for installing additional recovery boiler capacity beyond these upgrades are production-based, and these costs are therefore unnecessary to comply with the proposed regulations. The Agency solicits comments and detailed costing assumptions and data concerning the cost of oxygen delignification.

19. Solicitation of Toxics Data

A small number of mills in subcategories where BAT is being proposed did not submit toxic pollutant effluent data in response to the 1990 Census. For those mills, data from the "104-mill Study" was used to set mill-specific dioxin baselines, and other values for toxic pollutants were transferred from similar mills. The Agency solicits data on toxic pollutants from mills that meet this description.

20. Whether To Regulate Color, AOX, and COD

The Agency solicits comment on its proposal to control AOX, COD, and color with BAT effluent limitations.

Color, AOX, and COD are each bulk parameters, meaning that they do not represent a single compound, but a number of them. All three parameters have been receiving attention from various regulatory authorities as alternatives for controlling individual compounds. Color, in particular, has received state-level attention because it is a parameter visible to the average person. AOX has received international attention as an alternative parameter for chlorinated organic compounds. COD has received attention as a potential parameter for controlling low-molecular weight non-chlorinated compounds that have displayed toxicity in Canadian studies. Industry representatives challenge the Agency's intent to set limitations on these parameters, stating that they do not bear a direct relationship to any environmental effects related to particular pollutants of concern. Although direct statistical relationships are not clearly demonstrated, the Agency believes these parameters have a general relationship to a variety of compounds of concern, many of which have not yet been analyzed or identified. These bulk parameters can often be measured when specific pollutants cannot be measured using existing analytic methods. The Agency also believes that these parameters are useful measures of the performance of process and end-of-pipe technologies. The Agency requests comments on the utility of these parameters, as measures of the performance of process and end-of-pipe technologies and otherwise. The Agency solicits data relevant to the foregoing.

21. Data To Better Define Technology Variability

Initial statistical analysis indicates that for parameters that typically are monitored very frequently (e.g., as often as daily), such as AOX, individual measurements may be autocorrelated. The Agency requests the submission of treatment system influent and final effluent data for these parameters in order to better define the performance and variability of the process technologies (including closed screen rooms), BMP's, and secondary biological treatment system at any mills that use these and related technologies.

22. Upgrading Certain POTWs as an Alternative to POTW Limits

As set forth in section IX.E.5, EPA believes that controls equivalent to some PSES limits proposed today might be achieved more cost-effectively if the POTW receiving pulp and paper mill effluent were to upgrade its treatment facilities (instead of relying on the mill to meet PSES limits). EPA solicits comments and data on approaches for achieving the most cost-effective controls in this area, consistent with the Agency's legal obligations.

At 32 POTWs, pulp and paper mill wastewaters make up more than 50 percent of either total flow, BOD_5 loading, or TSS loading. The Agency solicits comments and data on:

- The specific design and operating parameters of these POTWs;
- Their performance in removing BOD_5, TSS, AOX, and COD;
- The utility of co-permitting the mills in the POTW's NPDES permit;
- Any alternative strategies in addition to those presented in this proposal that would achieve the same effluent quality from the POTW (based upon the proposed BAT production-based mass AOX, COD, and color limitations) if the proposed PSES applicable to mills discharging into some of these POTWs is not appropriate; and
- The costs developed by the Agency for upgrading the biological treatment systems at each of the affected POTWs.

23. BMPs, Limits on COD and Data for Control of Pulping Liquors

The Agency today proposes to require best management practices (BMPs) including pulping liquor spill prevention, containment, and control measures. These practices are known to reduce the amount of pulping liquor (especially "black liquor" at kraft mills) discharged to wastewater treatment systems, and reduce the cost of process operation through increased chemical recovery. These BMPs would include certain mandatory practices, such as developing and updating spill prevention plans, training, and related activities. These BMPs would also include other practices chosen from a "menu" of practices that are applicable to individual mills, such as secondary containment diking, covered storage tanks, and tank level alarms.

The Agency solicits comments on the utility and implementation of BMPs for pulping liquors as they contribute to reducing chemical costs and discharges of non-chlorinated compounds to the environment. The Agency also solicits comment on whether some practices should be mandatory for all mills, while other practices should be selected and applied as appropriate to individual mills. The Agency further solicits comment on the applicability of BMPs to mills in the following effluent guideline subcategories: Dissolving kraft; Bleached kraft and soda—papergrade; Unbleached kraft; Dissolving sulfite; Papergrade sulfite; Semi-chemical, and Non-wood chemical pulp.

Pulping liquors have been identified as a likely source of non-chlorinated organic compounds that exhibit aquatic toxicity. These liquors may contain specific toxic pollutants as provided by Sections 307(a) and 311(3). Naturally occurring phenolic compounds are known from the literature to be present in these liquors, including phenol. A broad range of other compounds also have been identified in the literature, but additional specific compounds among those on the lists of 307(a) and 311(e) compounds have not been identified by the Agency's wastewater sampling program to date. The Agency solicits data on the specific non-chlorinated compounds (e.g., phenol(s), others) that apparently are generated from within the pulp mill and recovery cycle portions of integrated mills (e.g., "black liquors," "red liquors").

The Agency also requests comments on its proposal to control chemical oxygen demand (COD) as a "bulk" parameter to reflect effective implementation of BMPs, as well as closed screen rooms and well-designed and operated biological treatment systems.

The Agency specifically solicits comments on the proposed COD limitations, and the methodology with which they were derived. The Agency intends to continue to collect additional COD and color data in each of the six subcategories applicable, including the dissolving sulfite subcategory for which applicable data are not available. Limitations may be derived in the future from such data for these subcategories, using the rationale presented in Section IX of this preamble and in the technical Development Document.

24. Toxic Weighting Factor for AOX

As explained in section XI.B., the Agency calculated a cost-effectiveness ratio for the BAT and PSES options. In the cost-effectiveness analysis, each pound of pollutant removed by a control technology is multiplied by a pollutant-specific toxic weighting factor to express the removal in units of pound-equivalent. The cost-effectiveness ratio is calculated as the incremental cost of an option divided by the incremental pounds-equivalent removed. In the development of BAT, the Agency projects removals of the bulk parameter AOX, and as a nonconventional pollutant, the Agency is interested in including AOX in cost-effectiveness calculations. Because AOX is not comprised of a unique set of compounds in the same proportion at all times, a

sound analytical procedure for calculating a toxic weighting factor for AOX was a difficult exercise. The cost-effectiveness ratios presented in this notice do not include toxic weighted pounds of AOX. The toxic weighting factor methodology for AOX (and other pollutants) is described in the Record for today's rulemaking. The Agency solicits comment on the methodology for estimating a toxic weighting factor for AOX and also on alternative procedures for including AOX in the cost-effectiveness analysis.

25. Pollution Prevention Opportunities

Today's proposal incorporates pollution prevention practices into the proposed effluent limitations and emission standards for the pulp and paper industry. The Agency requests information on other pollution prevention opportunities that may be available to mills covered by this proposal. The Agency is aware that many of the additives that may be used in the pulping or papermaking process, such as surfactant, are not specifically addressed by effluent limitations in this proposal. Also, biocides are commonly used in the industry to prevent biofouling and may not be specifically addressed by effluent limitations in this proposal. Such compounds may pose an environmental risk in some instances and may be candidates for pollution prevention practices such as source reduction or substitution. For example, the Agency has limited information that indicates that certain surfactants used in the pulping process (e.g., nonylphenol ethoxylates), or their degradation products, may be toxic or persistent in the environment. Yet opportunities exist to use less of the surfactant or an alternative surfactant which does not pose a similar risk. Similarly, the Agency is aware of recent information that one biocide (dodecylguanidine), which is used extensively in the paper industry and has been proposed for use as a molluscicide for zebra mussel control, has been found to be very persistent and highly toxic. Efforts are underway by the vendors to find a replacement biocide that is known to degrade and whose toxicity can be reduced or eliminated before discharge.

The Agency requests data that might help to identify specific process additives or biocides that might pose environmental risks and information regarding pollution prevention opportunities that may exist for such substances. EPA also requests comment on whether the final rule should require the implementation of specific pollution prevention practices addressing process additives or biocides.

26. Definition of Process Wastewater and Prohibited Discharges

The Agency proposed a definition of process wastewater for the effluent limitations guidelines regulation that expands upon the definition of process wastewater set out at 40 CFR 122.2. The definition specifically includes certain non-process wastewaters (boiler blowdown, cooling tower blowdown, storm water from immediate process areas) as process wastewater. The Agency believes these non-process wastewaters are typically co-treated with process wastewaters at many mills, and that the treated effluent data reported by the industry and used by the Agency to develop many of the proposed effluent limitations guidelines and standards were generated from co-treatment of these non-process wastewaters with process wastewaters. Accordingly, the Agency believes that those non-process wastewaters should be included in the definition of process wastewaters for this industry. The Agency is proposing to exclude groundwaters from groundwater remediation projects from the definition of process wastewaters. Because the quantity and quality of such groundwaters are likely to be highly variable on a site-specific basis, the Agency believes that the discharge of such groundwaters to surface waters should be regulated separately, or in addition to, process wastewaters on a case-by-case basis.

The Agency also proposes to exclude a number of process materials from the definition of process wastewaters and to expressly prohibit the discharge of such materials to publicly owned treatment works or waters of the United States, without an NPDES permit or individual control mechanism authorizing such discharge. The Agency believes that discharge and loss of these materials is inappropriate from the standpoints of productivity loss, pollution prevention, adverse impacts on wastewater treatment, and increased air emissions. The Agency believes that most responsible mill operators operate in a manner to prohibit such losses, but that there are other mill operators that operate with significant losses of such materials. The Agency believes it has accounted for much of the cost of complying with the proposed prohibitions in the estimated costs to comply with the BMP provisions of the regulation and the effluent limitations guidelines for COD and that the remaining costs are not significant in the context of the overall costs of the regulation.

The Agency solicits comments on the following:

- The expanded definition of process wastewaters and the proposed exclusion of groundwaters from the definition of process wastewaters;
- The specific proposed list of excluded and prohibited process materials and the potential costs of complying with the proposed prohibition of the discharge of process materials.

27. Costs of the Regulation

For purposes of proposal, EPA assigned the costs for process changes in full to the regulation. EPA believes, however, that in addition to significant effluent reduction benefits, compliance with the proposed regulation will result in increases in productivity, enhanced product quality, and improved plant and equipment use throughout the chemical pulping and bleaching segment of the industry. EPA believes that some portion, and perhaps a substantial portion, of the costs of compliance should be assigned or allocated to productivity, product quality and plant and equipment benefits the industry will derive. If EPA adopted this position, the portion of costs so assigned or allocated might not be considered as compliance costs in the economic impact analysis for the final regulation.

EPA specifically requests comments on what specific productivity, product quality and plant and equipment benefits the industry will derive from compliance with the regulation; how the Agency should estimate such benefits; and, whether, or to what extent the Agency should consider those benefits in the context of economic achievability determinations.

28. Limitations Based on Minimum Levels

EPA has proposed some BAT, PSES, PSNS, and NSPS limitations for the Bleached Papergrade Kraft and Dissolving Kraft subcategories based upon the current minimum levels of the analytical methods. The data characterizing the technology basis of these limitations were all reported as being below detection limits ("non-detect"). Based on these data, EPA believes that the BAT technologies for these subcategories are capable of reducing discharges of these pollutants to the current minimum levels specified in the analytical methods.

EPA considered applying variability factors to the minimum levels to allow for variability in the measurements. However, EPA believes that the data demonstrates that the technology is

always capable of achieving concentrations below the minimum level of the analytical method. Because all data for the pollutants for which limitations are based on the minimum level were "non detect", the variability in the measurements occurs below the minimum level and no additional allowance above the minimum level is therefore necessary. EPA also believes that providing additional allowance for variability beyond the minimum level is unnecessary, does not represent the capability of the technology, and would not be as protective of the environment as possible.

EPA acknowledges that some of the sample-specific detection limits reported with the non-detect data are higher than the minimum levels specified in the analytical methods. However, EPA believes that when the methods are used correctly that the minimum level is attainable. The achievability of the minimum levels has been demonstrated by a number of laboratories involved in the development and implementation of the methods.

EPA realizes that the analytical methods are likely to change as they are refined and the minimum levels may be set equal to lower levels. With these revised minimum levels, the data that were previously reported to be "non-detect" may be detected in concentrations less than the previous minimum level. EPA believes that all such measurements will be reported as below the previous minimum level. EPA is proposing these limitations on a concentration-basis instead of mass-based limitations as proposed for the pollutants for which there were detected measurements.

EPA solicits comments on these limitations that have been set equal to the minimum level of the analytical methods. EPA requests comments as to whether it is appropriate to determine limitations based upon current minimum levels, whether these limitations can be achieved, and whether other methods of estimating limitations based on all non-detect data would be more appropriate.

29. Multimedia Filtration as a BCT Technology

EPA evaluated multimedia filtration as a candidate BCT technology for today's proposed rulemaking. EPA found that multimedia filtration passed the BCT cost test in one subcategory (Mechanical Pulp) and failed the BCT cost test in all remaining subcategories. At present, EPA lacks adequate data with which to develop limits that mills within the Mechanical Pulp subcategory could meet using multimedia filtration. EPA solicits data and comments with which to develop such limits. In addition, EPA solicits comments and data on (i) the costs and pollutant removals associated with multimedia filtration, in all subcategories, and (ii) any candidate BCT technologies other than multimedia filtration that EPA should evaluate in developing BCT limits for the industry.

30. Definition of "Source" for Air Emission Standards

EPA is today proposing to define "source" broadly for purposes of this NESHAP, to include all pulping areas, bleaching areas and wastewater treatment areas within a mill. As discussed in section X.C, the reason for this proposal is that the CAA and the CWA differ regarding applicability requirements and compliance deadlines for new sources. The result of these differences is that mills planning to construct or reconstruct a source of HAPs between proposal and promulgation of the integrated regulations could find it necessary to plan for compliance with the NESHAP without knowing the requirements for the effluent standards.

One possible solution to this problem is to define "source" broadly for the NESHAP, to include all pulping and bleaching processes and associated process wastewater streams. With this definition there will be fewer instances in which a source will be constructed or reconstructed between proposal and promulgation than if source is defined to be an individual piece of equipment. With the broad definition, a piece of equipment that is added will not constitute a "new source", in most situations, but instead will be a change to an existing source.

Two options considered other than this broad definition of source were to define each piece of equipment as a source, or to define three kinds of sources: the pulping process, the bleaching process, and all associated process wastewater streams.

EPA solicits comments on the definition of "source" that would be most appropriate for the NESHAP. In particular, EPA solicits comments on whether the broad definition of "source" in today's proposal that defines a single source to comprise all pulping processes, bleaching processes, and process wastewaters will in fact promote integrated compliance planning, either during the period between proposal and promulgation or once the rule is promulgated. EPA also solicits comment on the impact of adopting either of the two alternative approaches considered, but not selected, in defining the source for today's proposal.

31. Impacts of Section 112(g) on Today's Proposed NESHAP

Industry representatives have voiced a concern that involves case-by-case MACT determinations required under CAA section 112(g) for changes for an existing mill. Specifically, their concern is that once a State permit system is effective, States will use today's rule as the basis of case-by-case MACT determinations for mills that make modifications or construct a new unit that by itself could be considered a major source. Industry representatives consider this to be a problem because they believe that the NESHAP proposed today are too stringent, and that additional data they are collecting will confirm this view. In making case-by-case MACT determinations for pulp and paper mills under Section 112(g), permitting authorities should take all available information into account. This information would include today's proposed rule and MACT floor determination, supporting information, and information submitted to the permitting authority during the public comment period on a permit. At the same time, permitting authorities must consider whether a statutory minimum (or floor) level of control exists and, if so, ensure that case-by-case MACT requirements are no less stringent.

EPA requests comments on the impact that today's proposed NESHAP may have on CAA section 112(g) case-by-case MACT determinations. EPA does not solicit general comments not specific to today's rulemaking, such as the interrelationship between sections 112(d), 112(g) and 112(j), the control levels required by statute for different sorts of changes, and generic preconstruction review requirements.

32. MACT Floor

There are several issues discussed under the development of the MACT floor on which EPA solicits comments and data. The three main topics are: interpretation of statutory language, definition of emission points controlled at the floor, and the control technology basis used to develop the floor.

a. Interpretation of Statutory Language. In Section X.D, EPA solicits comment on its methodology for determining the MACT floor—specifically on its interpretation of "the average emission limitation achieved by the best performing 12 percent of the existing sources" (CAA Section 112(d)(3)(A)). EPA solicits comments on two main areas of discussion: (1) the

interpretation of the statutory phrase as it refers to "average emission limitation" of the best performing 12 percent compared to "average emission limitation" that is achieved by all of the best performing 12 percent, and (2) the interpretation of the term "average."

b. Definition of emission points controlled at the floor. EPA identified certain low flow and episodic pulping and bleaching vent emission points that are not believed to be controlled at the floor. Available data indicate that these minor emission points can be identified by volumetric or mass flow rates, or concentrations. EPA also identified certain low concentration or low flow process wastewater streams that are not controlled at the floor. EPA solicits comments and data on the HAP concentration of these streams, specifically on the acid and caustic sewer streams and evaporator clean condensate streams.

There are a few mills currently using oxygen delignification units within their pulping process. In section X.D, EPA solicits comments and requests data on the use of such units within the industry. In addition, EPA specifically solicits comments on the inclusion of oxygen delignification units as controlled emission points in the MACT floor with other pulping component emission points.

c. Control technology basis. In sections X.D and X.E, EPA solicits comments and data on information related to the development of the bleaching component of the MACT floor. In section X.H, EPA solicits comment and data on the efficiency of steam stripping as the basis for the process wastewater component of the MACT floor.

Comment is solicited on the efficiency of gas scrubbers for removal of methanol, chloroform, chlorine and other HAP compounds from bleaching component emission points, the effect of process changes on HAP emissions from bleaching component emission points, and whether emission limitations should be set for chloroform emissions from bleaching component emission points. Comment is also requested on the use of gas scrubbers in combination with process changes; and on whether process changes, scrubbing, or the combination of both should be the MACT floor for bleaching component emission points.

EPA also solicits comment on whether the combustion of selected bleaching component vent streams followed by scrubbing of vent streams with high chlorine concentrations would be a reasonable option beyond the floor, and on which vent streams would be included under such an option.

For process wastewater component emission points, EPA solicits comments and requests data on the efficiency of steam strippers for removal of total HAP and methanol.

33. Emissions Averaging

During the development of today's proposal, EPA considered including an emissions averaging approach. EPA solicits comments on the merits and feasibility of emissions averaging in the pulp and paper industry and requests information and data that would be necessary to support development and implementation of an averaging approach.

EPA solicits comments on the approaches discussed in section X.M for establishing the MACT floor based upon the mass emission limit or mass emission reduction percentage achieved across either the process areas as a whole or each process area individually (see section X.C for descriptions of these source definitions). Specifically, EPA requests comments on the types and amount of data necessary to develop either a mass emission limit or a mass emission reduction percentage that would be associated with this type of MACT floor determination. EPA solicits comments on whether a mass emission limit or a mass emission reduction percentage could be established using a model plant and emission factor approach. EPA solicits comments on whether the current model plants and emission factors presented in the Background Information Document are sufficient to develop these values and solicits information and data that would be necessary to improve the model plants and emission factors for this purpose.

EPA solicits data on process variabilities at a mill and how these variabilities affect air emissions. EPA solicits comment on how such variability could be accounted for in establishing either a mass emission limit or a mass emission reduction percentage.

EPA solicits comment on how an averaging approach would be implemented for this industry. Specifically, EPA solicits comments on how a mill could demonstrate continuous compliance, as required by the CAA, including any additional monitoring, recordkeeping, or reporting that would be necessary if an averaging scheme was implemented. EPA solicits comment on the length of the averaging period.

34. Format of Air Emission Standards

EPA solicits comments and data on:

- Whether the applicability level for pulping and bleaching process vent streams should be based upon specifically named vents or upon a flow rate or concentration level,
- Whether an additional applicability level should be added for the bleaching component vent emissions based upon liquid-phase mass loading rates to the process equipment,
- Whether the applicability levels for process wastewater streams should be based upon named wastewaters or upon a flow rate and concentration level, and
- Whether a mass removal format for the process wastewater component should be an additional format for demonstrating compliance with the standards proposed today.

Applicability levels are proposed for pulping and bleaching component emission points in section X.H, to establish those emission points that are not required to be controlled. These applicability levels are based upon flow rates and concentration from process vents. The Agency solicits comments and data on whether these numerical applicability levels are appropriate for identifying pulping and bleaching component emission points that are not currently being controlled.

Although a liquid-phase HAP mass loading applicability level is provided for open pulping component process equipment based on the sum of all liquid streams entering the piece of process equipment, no such option is provided for the bleaching component because of the chemical reactions occurring in the bleaching process equipment. EPA solicits comments and data on whether a liquid-phase HAP mass loading for streams entering the process equipment would be an appropriate format for identification of bleaching component equipment not being controlled at the floor.

Applicability levels are also proposed for process wastewater emission points in section X.H, to establish those emission points that are not required to be controlled. These applicability levels are based upon concentration and flow rates from process wastewater streams. The Agency solicits comments and data on whether these numerical applicability levels are appropriate for identifying process wastewater component emission points that are not currently being controlled.

35. Subcategorization

Subcategorization may be appropriate if segments of the industry have significantly different characteristics,

such as applicable control technologies or costs for implementation of the control technology. EPA determined that the control technologies considered in the development of today's proposed standards were applicable to all segments of the industry, regardless of pulping process, end product, or wood species.

EPA is aware that scrubbing, rather than venting to a combustion device, is utilized in sulfite mills to control pulping process emissions. EPA solicits comments and data regarding: The efficiency of gas scrubbers for controlling HAP emissions from pulping process vents at sulfite mills, and whether standards for sulfite mill pulping processes should be based upon the use of scrubbing.

EPA is also aware the soda mills do not have gas collection systems in place for pulping process vents, because soda mills do not use sulfur-containing chemicals to digest the wood. EPA believes that gas collection and incineration is a feasible control technology to reduce total HAP emissions from soda mills. Representatives from these mills, however, urged EPA to create a separate subcategory for soda mills, due in part to the extra expense soda mills may incur when installing gas collection systems. EPA solicits comments on the HAP content of soda mill pulping process vent streams, the capacity of existing combustion devices, the costs of collecting and routing these vent streams to a combustion device, and whether there should be a separate subcategory for soda mills.

36. Time Extension for Totally Chlorine-Free

The CAA requires that sources come into compliance with a NESHAP as soon as practical, but no later than three years after promulgation of a rule. However, the CAA also provides for one additional year to come into compliance if equipment changes are required. The Agency solicits comment on automatically granting mills this one additional year for compliance on the condition that they adopt a totally chlorine-free technology.

37. Model Plants and Emission Estimates

EPA used emission models to predict air emissions of HAPs from the process wastewater collection and treatment system. EPA solicits comments and requests data on the emission estimates made for emissions and on flows and HAP concentrations in the pulping, bleaching, and process wastewater models used to develop today's proposed standards. Specifically, data is requested on process wastewater characteristics, EPA's wastewater model plant documented in the air docket, and emissions of HAPs especially methanol.

EPA also solicits comments and data on the models for wastewater, pulping, and bleaching component emission points; specifically on flowrates and concentrations of total HAP and individual HAP compounds.

38. Monitoring Issues

EPA requests comments on the monitoring of control device operating parameters to determine compliance with the proposed NESHAP. Specifically, EPA requests comment on whether it is reasonable to monitor actual emissions from certain control devices; and on the applicability of the proposed parameters for determining compliance.

In Section X.I, EPA requests comments concerning continuous compliance associated with utilizing existing combustion devices for pulping component emission points, including:

- Data on duration and frequency of combustor downtimes while pulping operations continue,
- Combustor capacity utilization,
- Retrofit information, and
- Current back-up operations for the pulping component.

In Section X.I, EPA requests comments on applicable monitoring parameters when biological treatment units are used to comply with the process wastewater standards. These include supporting data on biorates and corresponding parameters for monitoring. Specifically, EPA requests comments on the monitoring of soluble BOD in the biological treatment unit effluent as a parameter for determining compliance.

39. Recordkeeping and Reporting

EPA solicits comments on the reporting time requirement of 45 days for the Initial Notification for all sources. EPA also solicits comments on the content and reporting time requirements for any of the other required reports.

40. Modification Issue

EPA solicits comment on the impact of this specific rulemaking on modifications to affected sources under the NESHAP. We do not solicit comments on this rulemaking regarding CAA Section 112(g) in general.

C. Solicitation of Comment on an Industry Proposal

Section V.F of this preamble describes the public meetings that EPA sponsored during development of the proposed rules. One of the advantages of exchanging preliminary regulatory information prior to proposal is the opportunity for first-hand experience and reaction from the regulated community. By participating in a dialogue with representatives of industry and other concerned parties throughout regulatory development, the Agency was better able to characterize and document the technical feasibility of control options.

Many ideas and suggestions were presented in the public meetings and in other meetings with individual companies. Some of those ideas are the source of specific data requests described above in this section. For example, industry representatives suggested that EPA change the proposed subcategorization, and Item 6 above specifically solicits the information that EPA needs to adequately analyze the suggestion and then, possibly to incorporate the suggestion into the final regulations.

In addition to the suggestions and comments provided during public meetings, the industry trade association, the American Forest & Paper Association (AFPA), submitted a specific set of comments and suggestions concerning the Clean Water Act effluent guidelines and the Clean Air Act NESHAP. The set of AFPA suggestions is hereafter referred to as the AFPA Proposal (as it was also labelled by AFPA).

The AFPA Proposal was presented to the Administrator at a meeting on July 19, 1993. An outline of the AFPA presentation and the AFPA Proposal are included in the Record for today's proposed rulemaking. A summary of the AFPA Proposal is included here as a means to invite comment.

EPA incorporates the AFPA Proposal into this notice as an alternative to the proposed effluent limitations guidelines. EPA invites comment on any and all aspects of the AFPA Proposal as an alternative to the technology basis described in this preamble and to the effluent limitations presented in part 430, in whole or in part. EPA requests data and information to support comments on any aspect of the AFPA proposal. Specifically, EPA requests information on the technology basis that will achieve the numeric (or other) effluent limitations included in the AFPA Proposal. Similarly, EPA requests information, such as treatment effectiveness data, to develop effluent limitations for the technology basis suggestions in the AFPA Proposal.

EPA emphasizes that, for purposes of notice-and-comment, if any aspect of

the AFPA Proposal is supported with adequate documentation to demonstrate technical feasibility, economic achievability, or other statutory factors, EPA may revise the technology basis and corresponding effluent limitations for promulgation of these rules.

The following summary of the AFPA Proposal for effluent guidelines includes key provisions of the technology basis and effluent standards. EPA does not intend to interpret or otherwise react to the AFPA Proposal at this time, but instead to summarize the submission provided to the Administrator. Interested parties are encouraged to review the complete AFPA submission, which is included in the docket.

For mills in the Bleached Papergrade Kraft and Soda, Papergrade Sulfite, Dissolving Kraft, and Dissolving Sulfite subcategories, the AFPA Proposal includes an effluent limitation for TCDD of nondetect at 10 ppq measured at the point of discharge. For the same four subcategories, the AFPA Proposal includes effluent limitations for BOD and TSS (based on BCT) equivalent to the average BOD and TSS discharges of the best 90 percent of mills in the relevant subcategory. For the same four subcategories, the AFPA Proposal includes the adoption of mill-specific BMP programs for spill control to address color and COD (no effluent limits for color and COD are identified in the AFPA Proposal).

For mills in the Bleached Papergrade Kraft subcategory, the AFPA Proposal includes effluent limitations for AOX measured at the point of discharge using EPA Method 1650 of 1.0 Kg/ton (annual average of 0.8 Kg/ton) on October 31, 1998; and 1.2 Kg/ton (annual average of 1.0 Kg/ton) on October 31, 1996, for a minimum of 90 percent of mills in the subcategory. For new sources in this subcategory, the AFPA Proposal includes a 30-day average effluent limitation for AOX measured at a point of discharge using EPA Method 1650 of 0.6 Kg/ton (annual average of 0.48 Kg/ton) for new sources that commence construction after October 31, 1994.

In addition to the effluent limitations shown above for the Bleached Papergrade Kraft subcategory, the AFPA Proposal includes a study of a mutually-agreed upon list of chlorinated phenolic compounds to determine whether the amount and toxicity of these compounds pose a residual risk to human health and the environment that justifies national regulations after compliance with the AOX limitations cited in the preceding paragraph. One goal of this study would be for EPA to use the study's results to determine whether there is a need to establish effluent limitations for individual compounds.

For mills in the Papergrade Sulfite, Dissolving Sulfite, and Dissolving Kraft subcategories, the AFPA Proposal includes two suggestions. First, at the time the rules are promulgated, totally chlorine free technologies will not be the technology basis due to product specifications for customers of papergrade sulfite and dissolving sulfite mills. Second, at the time the rules are promulgated, the use of hypochlorite in dissolving kraft mills will be allowed because that chemical's use is necessary to continued manufacture of products to customer specifications.

The AFPA Proposal for the NESHAP focuses on an industry-funded study of HAP emissions and a deferral of proposed NESHAP pending receipt of that study's results. Because today's proposed rules include NESHAP in part 63, the Agency cannot sensibly present this provision of the AFPA Proposal as an alternative. The reasons for the suggested deferral, as described in the AFPA Proposal, are that the NESHAP should be based on sound, scientific data and engineering practices. The industry's study to characterize and quantify emissions of HAP from pulp and paper industry sources is intended to establish the necessary basis for the rules. The AFPA Proposal indicates that the Agency is currently lacking credible data. The Agency invites comment on the adequacy of the data supporting today's proposed rules and on the AFPA Proposal's indication of the absence of credible data. The Agency also invites comment on the use of the industry's study to establish NESHAP for the final rules.

D. Solicitation of Comment on an Environmental Group Petition

In September 1993, the Natural Resources Defense Council and the Natural Resources Council of Maine, on behalf of 57 environmental, Native American and citizen organizations, and individuals, filed a petition with EPA to prohibit the discharge of 2,3,7,8-tetrachlorodibenzo-p-dioxin by pulp and paper mills (hereafter referred to as the "NRDC Petition"). While this petition is not an alternative "proposal" for the effluent guidelines and NESHAP, the petition addresses many of the issues that today's proposed rules address. Hence, the Agency invites comment on the petition and its supporting documentation. The NRDC Petition is summarized here, and the complete submission that EPA received is included in the public record supporting the proposed rules.

By discussing the NRDC petition in this notice, EPA is not indicating any response to the petition. Specifically, EPA is not "publish[ing] in the Federal Register a proposed effluent standard" under CWA section 307(a)(2) with respect to dioxin or any other pollutant. EPA is instead inviting comment on the issues raised in the petition.

The NRDC Petition asks the Administrator to issue a prohibition on the discharge of all dioxin from pulp and paper mills. The petitioners ask that the prohibition be accomplished by requiring that the use of chlorine and chlorine-containing compounds as inputs in the manufacturing process be prohibited. The petitioners believe that the prohibitions are warranted by the dangers to human health and the environment posed by dioxin. The NRDC Petition points to sec. 307(a)(2) of the CWA for the authority for such a prohibition.

EPA invites comment on all aspects of the NRDC Petition including its scientific and legal authorities.

List of Subjects

40 CFR Part 63

Environmental protection Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 430

Air pollution control, Pulp, paper, or paperboard manufacturing, Pollution prevention, Sludge disposal, Wastewater treatment, Water pollution control.

Dated: October 29, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, Chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. It is proposed that part 63 be amended by adding Subpart S to read as follows:

Subpart S—National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry

Sec.

63.440 Applicability.

63.441 Definitions.

Sec.
63.442 [Reserved]
63.443 [Reserved]
63.444 Standards for pulping component.
63.445 Standards for bleaching component.
63.446 Standards for process wastewater component.
63.447 [Reserved]
63.448 [Reserved]
63.449 [Reserved]
63.450 Standards for enclosures and closed vent systems.
63.451 Test methods and procedures.
63.452 [Reserved]
63.453 Continuous monitoring.
63.454 Recordkeeping.
63.455 Reporting.
63.456 Delegation of authority.
63.457 [Reserved]
63.458 [Reserved]
63.459 [Reserved]

Subpart S—National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry

§ 63.440 Applicability.

(a) The provisions of this subpart apply to the owners or operators of any pulping component, bleaching component or process wastewater component associated with the production of chemical pulp from wood, including kraft, soda, sulfite, or semi-chemical processes. For purposes of this subpart, a source shall be comprised of all pulping components, bleaching components and process wastewater components at a mill, in combination.

(b) Each source that commenced construction or reconstruction before December 17, 1993 shall achieve compliance with the provisions of the subpart as expeditiously as practical after the date of promulgation of this subpart, but in no event later than 3 years after such date.

(c) Each source that commences construction or reconstruction on or after December 17, 1993 shall achieve compliance with the provisions of this subpart immediately upon startup or the date of promulgation of this subpart, whichever is later.

(d) This subpart is not applicable to sources for which the owner or operator has demonstrated to the Administrator's satisfaction that the facility is not a major source as defined in Section 112(a)(1) of the Clean Air Act.

§ 63.441 Definitions.

All terms used in this subpart shall have the meaning given them in the Act, in subpart A of this part, and in this section as follows:

Air dried pulp (ADP) means a pulp sample with a moisture content of less than or equal to 10 percent by weight. Pulp samples for the pulping component shall be unbleached pulp and for the bleaching component shall be bleached pulp.

Bleaching Brightening and delignification of pulp by the addition of oxidizing chemicals.

Bleaching component means all process equipment beginning with the first application of chlorine or chlorine-containing compound up to and including the final bleaching stage. Treatment with ozonation, oxygen, peroxide may occur before or after the addition of chlorine. If treatment occurs before this chlorine addition, then these stages are included in the pulping component; if treatment occurs after the addition of chlorine, then these bleaching stages are included in the bleaching component.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam. Boilers are not considered incinerators.

Chemical recovery means the process by which pulping chemicals in the spent cooking liquor are extracted or recovered after the multiple effect evaporator system.

Closed-vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.

Combustion device means an individual unit of equipment, including but not limited to, an incinerator, lime kiln, recovery furnace, process heater, or boiler, used for the thermal oxidation of organic hazardous air pollutant vapors.

Container means any portable unit in which wastewater or HAP removed from wastewater is stored, transported, treated, or otherwise handled. Examples of containers are drums, barrels, tank trucks, barges, dumpsters, tank cars, dump trucks, and ships.

Decker means a piece of equipment used to thicken or reduce the water content of the pulp slurry after the pulp washer system.

Digester system means each continuous digester or each set of batch digesters used for the chemical treatment of wood, including associated flash tank(s), blow tank(s), chip steamer(s), condenser(s), and pre-hydrolysis unit(s).

Emission point means any location within a source from which air pollutants are emitted, including an individual process vent, wastewater collection and treatment system, or an open piece of process equipment.

Flow indicator means a device which indicates whether gas flow is present in a closed vent system.

Incinerator means an enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas.

Individual drain system means the system used to convey process wastewater streams from the pulping or bleaching process equipment or tank or process wastewater collection and treatment system unit to a receiving process wastewater collection and treatment system unit. The term includes all process drains and junction boxes, together with their associated sewer lines and other junction boxes, manholes, sumps, and lift stations, down to the receiving process wastewater treatment system. The individual drain system shall be designed to segregate the vapors within the system from other drain systems. A segregated stormwater sewer system, which is a drain and collection system designed and operated for the sole purpose of collecting rainfall-runoff at a facility, and which is segregated from all other individual drain systems, is excluded from this definition.

Junction box means a manhole access point to a wastewater sewer system line or a lift station.

Knotter means a piece of equipment where knots or pieces of uncooked wood are removed from the pulp slurry after the digester system and prior to the pulp washer system. Equipment used to remove oversized particles from pulp following the pulp washer are considered screens.

Kraft pulping means a chemical pulping process that uses a mixture of sodium hydroxide and sodium sulfide as the cooking liquor.

Lime kiln means an enclosed combustion device used to calcine lime mud, which consists primarily of calcium carbonate, into calcium oxide.

Multiple-effect evaporator system means a series of evaporators operated at different pressures such that the vapor from one evaporator body becomes the steam supply for the next evaporator, and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp.

Operating parameter value means a minimum or maximum value established for a control device or process parameter if achieved by itself,

or in combination with one or more other operating parameter values; determines that an owner or operator has complied with an applicable emission limitation or standard.

Point of generation means the location where the process wastewater stream exits the pulping or bleaching process equipment or tank prior to mixing with other process wastewater streams or prior to handling or treatment in a piece of equipment that is not an integral part of the pulping or bleaching process equipment. A piece of equipment is an integral part of the process if it is essential to the operation of the process (i.e., removal of the equipment would result in the process being shut down).

Primary fuel means the fuel that provides the principle heat input to the combustion device. To be considered primary, the fuel must be able to sustain operation of the combustion device without the addition of other fuels.

Process emission point means a gas stream that contains hazardous air pollutants discharged during operation of process equipment including, but not limited to digesters, evaporators, pulp washer systems, bleaching towers, bleaching stage washers, and associated filtrate tanks. Process emission points include gas streams that are discharged directly to the atmosphere, discharged to the atmosphere via vents or open process equipment, or after diversion through a product recovery device.

Process wastewater collection system means a piece of equipment, structure, or transport mechanism used in conveying or storing a process wastewater stream. Examples of process wastewater collection system equipment include individual drain systems, wastewater tanks, surface impoundments, or containers.

Process wastewater component means air emissions from all process wastewater streams produced from the pulping and bleaching processes.

Process wastewater stream means any HAP-containing liquid that results from either direct or indirect contact of water with organic compounds. Examples of a process wastewater stream include, but are not limited to, digester condensates, evaporator condensates, and non-condensible gas system (NCG) condensates.

Process wastewater treatment system means a process or specific technique that removes or destroys the organics or any HAP in a process wastewater stream. Examples include, but are not limited to, a stream stripping unit, wastewater incinerator, or biological treatment unit.

Pulping component means all process equipment, beginning with the digester system, and up to and including the last piece of pulp conditioning equipment prior to the bleaching component, including treatment with ozone, oxygen, or peroxide before the first application of chlorine or chlorine-containing compounds.

Pulp washer system means pulp or brown stock washers and associated vacuum pumps, filtrate tanks, and foam breakers or tanks used to wash the pulp to separate spent cooking chemicals following the digestion system and prior to the bleaching component.

Recovery device means an individual unit of equipment, such as an absorber or a condenser, capable of and used for the purpose of recovering chemicals for use, reuse, or sale.

Recovery furnace means an enclosed combustion device where concentrated spent liquor is burned to recover sodium and sulfur, produce steam, and dispose of unwanted dissolved wood components in the liquor.

Relief valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment to avoid safety hazards or equipment damage.

Screen means a piece of process equipment where pieces of oversized particles are removed from the pulp slurry after the pulp washer system and prior to the papermaking equipment. Equipment used to remove uncooked wood prior to the pulp washer system are considered knotters.

Semi-chemical pulping means a pulping process that combines both chemical and mechanical pulping processes.

Sewer line means a lateral, trunk line, branch line, or other conduit including, but not limited to, grates, and trenches used to convey process wastewater streams or any HAP removed from process wastewater streams to a downstream unit in the process wastewater collection and treatment system.

Soda pulping means a chemical pulping process that uses sodium hydroxide as the active chemical in the cooking liquor.

Spent liquor means cooking liquor from a digestion or pulp-washer process, containing dissolved organic wood materials and residual cooking compounds.

Stripper system means a column, and associated condensers or heat exchangers, used to strip compounds from wastewater, using air or steam.

Sulfite pulping means a chemical pulping process that uses a mixture of sulfurous acid and bisulfite ion as the cooking liquor.

Surface impoundment means a unit which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is used for the purpose of treating, storing, or disposing of wastewater and is not an injection well. Examples of surface impoundments are equalization, settling, and aeration pits, ponds, and lagoons.

Temperature monitoring device means a piece of equipment used to monitor temperature and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 degrees Celsius (°C), whichever is greater.

§ 63.442 [Reserved]

§ 63.443 [Reserved]

§ 63.444 Standards for pulping component.

(a) The owner or operator of a new or existing source subject to the requirements of this subpart shall enclose and vent all emission points into a closed vent system as specified in § 63.450 and control all pulping component emission points as specified by paragraph (b) of this section, except:

(1) Decker(s) and screen(s) at existing sources; or

(2) Individual process emission points from enclosed process equipment which maintain either:

(i) A volumetric flow rate less than 0.0050 standard cubic meters per minute; or

(ii) A mass flow rate less than 0.230 kilograms of total HAP per hour; or

(iii) A mass flow rate less than 0.0010 kilograms of total HAP per megagram of ADP; or

(3) Process equipment at which the sum of all pulp and process wastewater streams entering the process equipment maintains a HAP mass loading of less than 0.050 kilograms of total HAP per megagram of ADP.

(b) For each pulping component emission point, the owner or operator shall comply with either (b)(1), (b)(2), or (b)(3) of this section.

(1) Reduce total HAP emissions by at least 98 percent by weight or, if an incinerator is used, reduce total HAP emissions by at least 98 percent by weight or meet an outlet concentration of 20 parts per million by volume of total HAP; or

(2) Route all emission point gas streams to an incinerator designed and

operated at a minimum temperature of 1600 °F and a minimum residence time of 0.75 seconds; or

(3) Route all emission point gas streams to a boiler, lime kiln, or recovery furnace which introduces all emission point gas streams with the primary fuel or into the flame zone.

§ 63.445 Standards for the bleaching component.

(a) The owner or operator of a new or existing source subject to the requirements of this subpart shall enclose and vent all emission points into a closed vent system as specified in § 63.450 and control all bleaching component emission points as specified by paragraph (b) of this section, except individual process emission points from enclosed process equipment maintaining either:

(1) A volumetric flow rate less than 0.0050 standard cubic feet per minute; or

(2) A mass flow rate less than 0.230 kilograms of total HAP per hour; or

(3) A mass flow rate less than 0.0010 kilograms of total HAP per megagram of ADP.

(b) For bleaching component emission points, the owner or operator shall reduce the total HAP mass in the vent stream entering the treatment device by 99 percent.

§ 63.446 Standards for process wastewater component.

(a) The owner or operator of a new or existing source subject to the requirements of this Subpart shall control all process wastewater streams as specified in paragraphs (b) through (e) of this section until treated to meet the requirements of paragraph (f) and (g) of this section, except:

(1) Bleaching caustic or acid sewer streams; or

(2) Process wastewater streams with annual average flow rates less than 1.0 liters per minute at the point of generation; or

(3) Process wastewater streams with an annual average total HAP concentration less than 500 parts per million by weight at the point of generation.

(b) For each wastewater tank that receives, manages, or treats either a process wastewater stream or any HAP removed from a process wastewater stream and that is prior to treatment of the wastewater stream to meet paragraph (f) of this section, the owner or operator shall operate and maintain a fixed roof and route all HAP vapors vented from the wastewater tank into a closed vent system as specified in § 63.450 and control all HAP vapors as specified in § 63.444(b). The fixed roof and closed vent system shall meet the following requirements:

(1) The fixed roof and all openings (e.g., access hatches, sampling ports, gauge wells) shall be designed for and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background.

(2) Each opening shall be maintained in a closed, sealed position (e.g., covered by a lid that is gasketed and latched) at all times that the wastewater tank contains a wastewater stream or any HAP removed from a process wastewater stream except when it is necessary to use the opening for process wastewater sampling, removal, or for equipment inspection, maintenance, or repair.

(c) For each surface impoundment that receives, manages, or treats a process wastewater stream and that is prior to treatment of the wastewater stream to meet paragraph (f) of this section, the owner or operator shall maintain on each surface impoundment a cover (e.g., air-supported structure or rigid cover) and operate a closed-vent system as specified in § 63.450 and control all HAP vapors as specified in § 63.444(b).

(1) The cover and all openings (e.g., access hatches, sampling ports, and gauge wells) shall be designed and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background.

(2) Each opening shall be maintained in a closed, sealed position (e.g., covered by a lid that is gasketed and latched) at all times that a process wastewater stream is in the surface impoundment except when it is necessary to use the opening for sampling, removal, or for equipment inspections, maintenance, or repair.

(3) The cover shall be used at all times that a process wastewater stream is in the surface impoundment except during removal of any HAP in accordance with 40 CFR 268.4 or closure of the surface impoundment in accordance with 40 CFR 264.228.

(d) For each container that receives, manages, or treats either a process wastewater stream or any HAP removed from a process wastwater stream and that is prior to treatment of the wastewater stream to meet paragraph (f) of this section, the owner or operator shall comply with the requirements of paragraphs (d)(1) through (d)(3) of this section.

(1) The owner or operator shall operate and maintain a cover on each container used to handle, transfer, or store a process wastewater stream or any HAP removed from a process wastewater stream in accordance with the following requirements:

(i) The cover and all openings (e.g., hatches, sampling ports, and pressure relief devices) shall be designed and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background, except for pressure relief events related to safety considerations.

(ii) The cover and all openings shall be maintained in a closed, sealed position (e.g., covered by a lid that is gasketed and latched) at all times that a process wastewater stream or any HAP removed from a process wastewater stream is in the container except when it is necessary to use the opening for filling, removal, inspection, sampling, or pressure relief events related to safety considerations.

(2) A submerged fill pipe shall be used when a container is being filled with a process wastewater stream or any HAP removed from a process wastewater stream.

(i) The submerged fill pipe outlet shall extend to within two fill pipe diameters of the bottom of the container while the container is being filled.

(ii) The cover shall remain in place and all openings shall be maintained in a closed, sealed position except for those openings required for the submerged fill pipe and for venting of the container to prevent physical damage or permanent deformation of the container or cover.

(3) During treatment of a process wastewater stream or any HAP removed from a process wastewater stream, including aeration, loading operations, thermal or other treatment which generates vapors, in a container, whenever it is necessary for the container to be open, the container shall be located within an enclosure with a close-vent system as specified in § 63.450 and that routes the HAP vapors vented from the container to be controlled, and controls of all HAP vapors as specified in § 63.444(b) device. The enclosure and all openings (e.g., doors, hatches) shall be designed and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background.

(e) For each individual drain system that receives or manages either a process wastewater stream or any HAP removed from a process wastewater stream and that is prior to treatment of the wastewater stream to meet paragraph (f) of this section, the owner or operator shall comply with the requirements of paragraph (e)(1) or (e)(2) of this section.

(1) If the owner or operator elects to comply with this paragraph, the owner or operator shall operate and maintain on each opening in the individual drain system a cover and closed-vent system as specified in § 63.450 and control all HAP as specified in § 63.444(b) and the owner or operator shall comply with the requirements of paragraph (e)(1)(i) through (e)(1)(iii) of this section.

(i) The cover and all openings (e.g., access hatches, sampling ports) shall be designed and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background.

(ii) The cover and all openings shall be maintained in a closed, sealed position (e.g., covered by a lid that is gasketed and latched) at all times that a process wastewater stream or any HAP removed from a process wastewater stream is in the drain system except when it is necessary to use the opening for sampling or removal, or for equipment inspection, maintenance, or repair.

(2) If the owner or operator elects to comply with this paragraph, the owner or operator shall comply with the requirements in paragraphs (e)(2)(i) through (e)(2)(iv) of this section:

(i) Each drain shall be equipped with water seal controls, such as a p-trap or s-trap, or a tightly sealed cap or plug. For each drain using a p-trap or s-trap, the owner or operator shall ensure that water is maintained in the p-trap or s-trap.

(ii) Each junction box shall be equipped with a cover and, if vented, shall have a vent pipe. Any vent pipe shall be at least 90 centimeters in length and shall not exceed 10.2 centimeters in diameter. Junction box covers shall have a tight seal around the edge and shall be kept in place at all times, except during inspection and maintenance.

(iii) One of the following methods shall be used to control emissions from the junction box vent pipe to the atmosphere:

(A) Equip the junction box or lift station with a system to prevent the flow of HAP vapors from the vent pipe to the atmosphere during normal operation. An example of such a system includes use of water seal controls on the wastewater pipes entering the junction box.

(B) Connect the vent pipe to a closed-vent system and control device that is designed, operated, and inspected in accordance with the requirements of § 63.450 of this Subpart and control on HAP vapors as specified in § 63.444(b).

(iv) Each sewer line shall not be open to the atmosphere and shall be covered or enclosed in a manner so as to have no visible gaps or cracks in joints, seals, or other emission interfaces.

(f) For each process wastewater stream, the owner or operator shall meet one of the following treatment requirements:

(1) Recycle the process wastewater streams to a process unit meeting the requirements of § 63.444(b); or

(2) Treat the process wastewater streams to reduce the total HAP concentration to a level less than 500 parts per million by weight. The intentional or unintentional reduction in total HAP concentration of a process wastewater stream by dilution with other process wastewater streams or materials containing less than 100 parts per million of total HAP by weight is not allowed for the purposes of complying with this requirement; or

(3) Treat the process wastewater streams to reduce or destroy the total HAP by at least 90 percent by weight; or

(4) Treat the process wastewater streams using a steam stripper meeting the following design and operating specifications in paragraphs (f)(4)(i) through (iv) of this section:

(i) Countercurrent flow configuration with a minimum of 8 theoretical trays in the stripping section of the column, and

(ii) Minimum steam flow rate of 0.18 kilopascals of steam per liter of process wastewater feed with steam of at least 149 degrees centigrade and 276 kilograms gauge pressure,

(iii) Minimum process wastewater column feed temperature of 96 degrees Centigrade, and

(iv) Maximum liquid loading of 44,600 liters per hour per square meter.

(g) For any HAP removed from the process wastewater during treatment and handling under paragraphs (f)(2), (f)(3), or (f)(4) of this section, the owner or operator shall:

(1) Recycle any HAP containing condensate streams as specified in paragraph (f)(1) of this section; and

(2) Control any HAP containing gas streams as specified in § 63.444(b).

(h) The owner or operator of a new or existing source subject to the requirements of this subpart shall evaluate all process wastewater streams as specified in § 63.451 (f) or (g) initially and whenever a process change occurs that has the potential to impact process wastewater flow or HAP concentration of streams initially exempt from control and cause a wastewater stream to become subject to the standards of this Subpart.

§ 63.447 [Reserved]

§ 63.448 [Reserved]

§ 63.449 [Reserved]

§ 63.450 Standards for enclosures and closed vent systems.

(a) For each emission point subject to § 63.444(b) and § 43.445(b), the owner or operator shall install an enclosure to capture and contain all HAP emissions and transport for control all HAP emissions in a closed vent system. The enclosure and closed vent system shall meet the following requirements:

(1) The enclosure shall capture all HAP emissions from process equipment by maintaining negative pressure at each enclosure opening. Each enclosure opening that was closed during the performance test specified in § 63.451(l) shall be secured in the closed position with a car-seal or a lock-and-key type configuration; and

(2) The closed vent system shall be designed for and operated with no detectable leaks as indicated by an instrument reading of less than 500 parts per million above background.

(b) Bypass lines that could divert an emission point gas stream away from the control device to the atmosphere shall comply with the requirements of paragraph (b)(1) or (b)(2) of this section.

(1) Install, calibrate, maintain, and operate according to manufacturer's specification a flow indicator that provides a record of emission point gas stream flow at least once every 15 minutes. The flow indicator shall be installed at the entrance to any bypass line; or

(2) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every 30 days to ensure the valve is maintained in the closed position and the emission point gas stream is not diverted through the bypass line.

§ 63.451 Test methods and procedures.

(a) An initial performance test is required for all emission points except the following:

(1) A combustion device designed and operated as specified in § 63.444 (b)(2) or (b)(3); or

(2) A steam stripper designed and operated as specified in § 63.446(f)(4).

(b) An owner or operator may use engineering assessment to evaluate the exemption from control limits for the pulping and bleaching component specified in § 63.444(a) and § 63.445(a) if information and documentation is provided to the satisfaction of the Administrator. Engineering assessment

may be used to determine enclosed vent stream flow rate and individual or total HAP emission rates for the representative operating conditions. Engineering assessment includes, but is not limited to, the following:

(1) New and previous test results provided the tests are representative of current operating practices at the process unit.

(2) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(3) Maximum flow rate, methanol emission rate, chlorine emission rate, or total HAP emission rate specified within an applicable permit limit.

(4) Design analysis based upon accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(i) Use of material balances based upon process stoichiometry to estimate maximum total HAP concentrations,

(ii) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities,

(iii) Estimate of methanol, chlorine, or total HAP concentrations based upon saturation conditions.

(5) All data, assumptions, and procedures used in the engineering assessment shall be documented.

(c) For purposes of determining sampling location and vent stream flow rates for emission point flow rate, mass, or vent stream concentration required in § 63.444 and § 63.445, as specified under paragraph (c)(2), (d), or (e) of this section, the owner or operator shall comply with the following:

(1) Method 1 or 1A of Part 60, Appendix A, as appropriate, shall be used for selection of the sampling site.

(i) For determining a process emission point flow rate as specified in § 63.444(a)(2) and § 63.445(a)(1), or for determining a process emission point mass emission as specified in § 63.444(a)(3) and (4); and § 63.445(a) (2) and (3), the sampling site shall be located prior to dilution of the emission point gas stream and prior to release to the atmosphere.

(ii) For determining the HAP mass loading rate in liquid streams entering a piece of equipment in the pulping component, as specified in § 63.444(a)(5), the sampling site shall be located as close as practical to where the pulp stream enters the process equipment.

(iii) For determination of compliance with the percent reduction requirements of § 63.444(b)(1) and § 63.445(b), sampling sites shall be located after the final recovery device outlet and prior to the inlet of the control device and at the outlet of the control device.

(iv) For determination of compliance with the parts per million by volume concentration limit in § 63.444(b)(1), the sampling site shall be located at the outlet of the control device.

(2) The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D of Part 60, Appendix A, as appropriate.

(3) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter.

(d) The owner or operator shall use the following procedures to determine the mass emission rate of an emission point as specified in § 63.444 and § 63.445:

(1) For the mass limit requirements in § 63.444(a) and the percent reduction requirements in § 63.444(b)(1), the total HAP concentration for the pulping component may be measured as either total HAP or methanol using the following:

(i) The average result of three tests using Method 308 shall be used to determine methanol concentration in the emission point gas stream; or

(ii) Any other method or data that has been validated according to the applicable procedures in Method 301 of Part 63, Appendix A, may be used to determine the concentration to be used in the following procedures or emission rate.

(2) For the mass limit requirements or percent reduction requirements in § 63.445 (a) and (b), the total HAP concentration in the bleaching component may be measured as either total HAP or methanol and chlorine individually using the following:

(i) The average result of three tests using Method 308 shall be used to determine methanol concentration and the average result of three tests using Method 26A shall be used to determine the chlorine concentration in the emission point gas stream; or

(ii) Any other method or data that has been validated according to the applicable procedures in Method 301 of Part 63, Appendix A, may be used to determine the concentration to be used in the following procedures or emission rate.

(3) The minimum sampling time for each of the three runs per method shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(4) The methanol, chlorine, or total HAP mass emission rate in the emission point gas stream shall be calculated using the following equation:

$$E = K_2\left[\sum_{j=1}^{n} 150 n C_j M_j\right] Q_s$$

where:

E=Mass emission rate of total HAP, chlorine, or methanol in the sample, kilograms per hour.

K_2=Constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minutes/hour), where standard temperature for (gram-mole per standard cubic meter) is 20 °C.

C_j=Concentration on a dry basis of compound j in parts per million as measured by Method 308, or Method 26A as indicated in paragraph (d) (1) or (2) of this section.

M_j=Molecular weight of j, gram/gram-mole.

Q_s=Vent stream flow rate (dry standard cubic meter per minute) at a temperature of 20 °C as indicated in paragraph (c)(2) of this section.

(5) The total HAP, chlorine, or methanol mass emission per unit of pulp produced as specified in § 63.444(a)(4) or § 63.445(a)(3) shall be calculated using the following equation:

$$F = \frac{Ej}{P}$$

where:

F=Mass emission rate of total HAP, chlorine, or methanol in the sample, kilograms per air dry megagram of pulp.

E_j=Mass emission rate of total HAP, chlorine, or methanol in the sample, kilogram per hour as calculated in (d)(4) of this section.

P=The mass of pulp produced during the sample, megagrams ADP per hour.

(e) Except as provided in paragraphs (a) of this section, the owner or operator complying with the percent reduction efficiency requirements in § 63.444(b)(1) and § 63.445(b) shall conduct a performance test using the procedures in paragraphs (e)(1) through (e)(4) of this section.

(1) The procedures specified in paragraph (c) of this section shall be used for selection of the sampling sites.

(2) The owner or operator shall use the test methods specified in paragraph (d) of this section to determine emission rates at the inlet and outlet of the control device.

(3) If a combustion device is used to comply with the 20 ppmv limit in § 63.444(b)(1), the concentrations

obtained at the outlet of the combustion device using the appropriate test method shall be corrected to 3 percent oxygen using the following procedures:

(i) The emission rate correction factor or excess air, integrated sampling and analysis procedures of Method 3B of Part 60, Appendix A shall be used to determine the oxygen concentration ($\%O_{2d}$). The samples shall be taken during the same time that the HAP, or methanol samples are taken.

(ii) The concentration corrected to 3 percent oxygen (C_c) shall be computed using either of the following equations:

$$C_C = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right)$$

where:

C_c=Concentration of total HAP, chlorine, or methanol corrected to 3 percent oxygen, dry basis, parts per million by volume.

C_m=Concentration of total HAP, methanol or chlorine, dry basis, parts per million by volume, as specified in paragraph (d) of this section.

$\%O_{2d}$=Concentration of oxygen, dry basis, percent by volume.

(4) The percent reduction of total HAP, methanol, or chlorine as specified in § 63.444(b)(1) or § 63.445(b)(1) shall be calculated as follows:

$$R = \frac{E_i - E_O}{E_i}(100)$$

where:

R=Control efficiency of control device, percent.

E_i=Mass emission rate of HAP, chlorine, or methanol at the inlet to the control device as calculated under paragraph (d)(4) of this section, kilograms of constituent per hour.

E_o=Mass emission rate of HAP, chlorine, or methanol at the outlet of the control device, as calculated under paragraph (d)(4) of this section, kilograms constituent per hour.

(f) To determine the annual average process wastewater flow rate for a process wastewater stream as specified in § 63.446(a)(2) and (h), the owner or operator shall use one of the following methods:

(1) Use the maximum annual production capacity of the process equipment, knowledge of the process, and mass balance information to either: estimate directly the process wastewater flow rate, in liters per minute; or estimate the total annual process wastewater volume and then divide total volume by 525,600 minutes in a year to determine the process wastewater flow rate in liters per minute;

(2) Select the highest flow rate of process wastewater from historical records representing the most recent 5 years of operation or, if the process unit has been in service for less than 5 years but at least 1 year, from historical records representing the total operating life of the process unit;

(3) Measure the flow rate of the process wastewater at the point of generation during conditions that are representative of wastewater generation rates.

(g) An owner or operator shall determine the annual average total HAP concentration of a process wastewater stream as required in § 63.446(a)(3) at the point of generation by one of the methods in paragraphs (g)(1), (2), or (3) of this section. For the purpose of determining the annual average total HAP concentration in a process wastewater stream, either total HAP or methanol concentration may be measured.

(1) Knowledge of the process wastewater. The owner or operator shall provide sufficient information to document the annual average total HAP or methanol concentration of the process wastewater stream. Examples of information that could constitute knowledge include material balances or previous test results provided the results are still representative of current operating practices at the process unit(s). If test data are used, then the owner or operator shall provide documentation describing the testing protocol and the means by which sampling variability and analytical variability were accounted for in the determination of the concentration for the process wastewater stream; or

(2) Bench-scale or pilot-scale test data. The owner or operator shall provide sufficient information to demonstrate that the bench-scale or pilot-scale test concentration data are representative of the actual annual average total HAP or methanol concentration. The owner or operator shall also provide documentation describing the testing protocol, and the means by which sampling variability and analytical variability were accounted for in the determination of the total HAP or methanol concentration for the process wastewater stream; or

(3) Measurements made at the point of generation or, when not feasible, measurements made at a downstream location that are corrected to point of generation values of the total HAP or methanol concentration in the process wastewater stream in accordance with the following procedures:

(i) Collect a minimum of three samples from each process wastewater stream which are representative of normal flow and concentration conditions. Where feasible, samples shall be taken from an enclosed pipe prior to the process wastewater being exposed to the atmosphere. Process wastewater samples shall be collected using the sampling procedures specified in 40 CFR, Appendix A, Method 305.

(ii) When sampling from an enclosed pipe is not feasible, a minimum of three representative samples shall be collected in a manner to minimize exposure of the sample to the atmosphere and loss of HAP compounds prior to sampling.

(iii) Each process wastewater sample shall be analyzed using one of the following test methods for determining the total HAP or methanol concentration in a process wastewater stream:

(A) Test Method 305; or

(B) A method or results from a test method that measures methanol concentration in the process wastewater, and that has been validated according to Method 301.

(iv) The methanol concentration shall be calculated by averaging the results of the sample analyses as follows and correcting for the fraction measured by the method:

where:

$$\overline{C} = \frac{1}{n}\sum_{i=1}^{n} C_i/fm$$

C=Methanol concentration for process wastewater stream, parts per million by weight.

n=Number of process wastewater samples (at least 3).

C_i=Measured average methanol concentration in process wastewater sample i, parts per million by weight.

fm=Fraction of total HAP or methanol measured by the method compared to total mass in the liquid for Method 305, the fm for methanol is 0.85.

(h) The owner or operator shall use the following procedures to demonstrate compliance of a treatment process with the parts per million by weight process wastewater stream concentration limits at the outlet of the treatment process as specified in § 63.446(f)(2). For the purpose of demonstrating compliance with the process wastewater stream concentration limits, either total HAP or methanol concentration may be measured.

(1) The total HAP or methanol concentration shall be measured using Test Method 305.

(2) A minimum of three representative samples of the process wastewater stream exiting the treatment process shall be collected and analyzed using the procedures in paragraph (g)(3) of this subpart.

(i) The owner or operator shall use the following procedures to demonstrate compliance with the percent reduction limits for total HAP or methanol mass flow rate as specified in § 63.446(f)(3) except as specified in paragraph (j) of this section.

(1) The percent reduction of total HAP or methanol mass flow rate shall be measured using Method 305 from both the inlet and outlet of the treatment process or a method or results from a test method that measures methanol concentration in the process wastewater, and that has been validated according to Method 301.

(2) The mass flow rate of total HAP or methanol entering the treatment process (E_b) and exiting the treatment process (E_a) shall be determined by computing the product of the flow rate of the process wastewater stream entering or exiting the treatment process, and the total HAP or methanol concentration of the entering or exiting wastewater streams, respectively.

(i) The flow rate of the entering and exiting process wastewater streams shall be determined using the inlet and outlet flow meters, respectively.

(ii) The total HAP or methanol concentration of the entering and exiting process wastewater streams shall be determined using the method specified in paragraph (g)(3)(iii) and (iv) of this section.

(iii) Three grab samples of the entering process wastewater stream shall be taken at equally spaced time intervals over a 1-hour period. Each 1-hour period constitutes a run, and the performance test shall consist of a minimum of 3 runs.

(iv) Three grab samples of the exiting process wastewater stream shall be taken at equally spaced time intervals over a 1-hour period. Each 1-hour period constitutes a run, and the performance test shall consist of a minimum of 3 runs conducted over the same 3-hour period at which the mass flow rate of methanol entering the treatment process is determined.

(v) The mass flow rates of total HAP or methanol entering and exiting the treatment process are calculated as follows:

$$E_b = \frac{K}{n \times 10^6}\left(\sum_{i=1}^{n} nV_{bi}C_{bi}\right)$$

$$E_a = \frac{K}{n \times 10^6}\left(\sum_{i=1}^{n} nV_{ai}C_{ai}\right)$$

where:

E_b=Mass flow rate of total HAP or methanol entering the treatment process, kilograms per hour.

E_a=Mass flow rate of total HAP or methanol exiting the treatment process, kilograms per hour.

K=Density of the process wastewater stream, kilograms per cubic meter.

V_{bi}=Average volumetric flow rate of process wastewater entering the treatment process during each run i, cubic meters per hour.

V_{ai}=Average volumetric flow rate of process wastewater exiting the treatment process during each run i, cubic meters per hour.

C_{bi}=Average concentration of total HAP or methanol in the process wastewater stream entering the treatment process during each run i, parts per million by weight, as specified in paragraph (g)(3)(iii) and (iv) of this section.

C_{ai}=Average concentration of total HAP or methanol in the process wastewater stream exiting the treatment process during each run i, parts per million by weight, as specified in paragraph (g)(3)(iii) and (iv) of this section.

n=Number of runs.

(3) The percent reduction across the treatment process shall be calculated as follows:

$$R = \frac{E_b - E_a}{E_b} \times 100$$

where:

R=Control efficiency of the treatment process, percent.

E_b=Mass flow rate of total HAP or methanol entering the treatment process, kilograms per hour, as specified in paragraph (i)(3)(v) of this section.

E_a=Mass flow rate of total HAP or methanol exiting the treatment process, kilograms per hour, as specified in paragraph (i)(3)(v) of this section.

(j) The owner or operator shall use the following procedures to demonstrate compliance with the percent reduction of total HAP for a biological treatment unit as specified in § 63.446(f)(3). For the purpose of demonstrating compliance with the process wastewater stream concentration limits, methanol concentration may be measured.

(1) The procedures in paragraph (i)(1) and (2) of this section shall be used to measure the mass flow rate of methanol entering and exiting the biological treatment process.

(2) The percent reduction due to destruction in the biological treatment process shall be calculated as follows:

$$R = \frac{(E_b - E_a) \times (f_{bio})}{E_b} \times 100$$

where:

R=Destruction of methanol in the biological treatment process, percent.

E_b=Mass flow rate of methanol entering the biological treatment process, kilograms per hour.

E_a=Mass flow rate of methanol exiting the biological treatment process, kilograms per hour.

f_{bio}=The fraction of methanol removed using WATER7. The site specific biorate constants used as inputs to WATER7 shall be determined using Method 304 of Appendix A of this Part.

(k) An owner or operator of a closed vent system as specified in § 63.450 or a process wastewater collection system as specified in § 63.446(b), (c), (d), and (e) shall test equipment for no detectable leaks as indicated by an instrument reading of less than 500 parts per million by volume above background in accordance with the following requirements:

(1) Method 21, from Appendix A of 40 CFR part 60, shall be used to determine the presence of leaking sources.

(2) The instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21. The following calibration gases shall be used:

(i) Zero air (less than 10 parts per million by volume of hydrocarbon in air); and

(ii) A mixture of methane or n-Hexane and air at a concentration of approximately, but less than, 10,000 parts per million by volume methane or n-Hexane.

(l) An owner or operator of an enclosure as specified in § 63.450 shall test all process equipment enclosure openings for negative pressure using one of the following:

(1) Use an anemometer to demonstrate flow into the enclosure opening; or

(2) Measure the static pressure across the opening; or

(3) Visually demonstrate flow into the enclosure opening; or

(4) Calculate the average face velocity for all openings.

(m) To determine total HAP or methanol mass loading for the sum of

all pulp and process wastewater streams entering the process equipment as specified in § 63.444(a)(5), an owner or operator shall:

(1) Determine the total HAP or methanol mass loading rate in each pulp and process wastewater stream following the procedures specified in paragraph (i)(1) and (2) of this subpart for the streams entering the process equipment only. Samples shall be obtained prior to dilution with other streams entering the process and prior to exposure to the atmosphere.

(2) The total HAP or methanol liquid phase concentration shall be calculated using the following equation:

$$L_p = \frac{\sum_{i=1}^{n} E_{bi}}{P}$$

where:

L_p=Liquid phase value of total HAP or methanol entering process equipment, kilograms per megagram ADP.

E_{bi}=Individual stream total HAP or methanol entering process equipment mass loading entering the piece of process equipment, kilograms per hour.

P=The mass of pulp handled in the process equipment during the sampling period, megagrams ADP per hour.

§ 63.452 [Reserved]

§ 63.453 Continuous monitoring.

(a) Each enclosure and closed vent system used to comply with § 63.450 shall comply with the requirements specified in paragraphs (a)(1) through (a)(4) of this section.

(1) For each enclosure opening, a visual inspection of the seal or closure mechanism specified in § 63.450(a)(1) shall be performed at least once every 30 days to ensure the opening is maintained in the closed position and sealed.

(2) Visually inspect each closed vent system as specified in § 63.450(a)(2) every 30 days and at other times as requested by the Administrator. The visual inspection shall include inspection of ductwork, piping, enclosures, and connections to covers for evidence of visible defects.

(3) Demonstrate no detectable leaks as specified in § 63.450(a)(2) measured initially and annually by the procedures in § 63.451(k).

(4) If visible defects in ductwork, piping, enclosures and connections to covers as specified in § 63.450 are observed during an inspection required by paragraph (a)(3) of this section; or if an instrument reading of 500 parts per million by volume or greater above background is measured; or if enclosure openings do not have negative pressure during an inspection required by § 63.450(a)(1), it shall be repaired as soon as practicable.

(i) A first effort to repair the closed vent system shall be made as soon as practicable but no later than 5 calendar days after identification.

(ii) Repair shall be completed no later than 15 calendar days after identification.

(b) Each owner or operator using an incinerator or a combustion device to comply with § 63.444 (b)(1) or (b)(2) shall install, calibrate, maintain, and operate according to manufacturers specifications a temperature monitoring device measuring the temperature in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs. The monitor shall be equipped with a continuous recorder.

(c) Each owner or operator using a gas scrubber to comply with § 63.445(b), shall install, calibrate, maintain, and operate with a continuous recorder according to manufacturers specifications equipment to monitor the following:

(1) The pH of the gas scrubber effluent; and

(2) The gas scrubber vent gas inlet flow rate; and

(3) The gas scrubber liquid influent flow rate.

(d) Each owner or operator using a steam stripper to comply with § 63.446(f) (2), (3), or (4) shall install, calibrate, maintain, and operate with a continuous recorder, according to manufacturers specifications equipment to monitor the following:

(1) The process wastewater mass feed rate; and

(2) The steam feed rate; and

(3) The process wastewater column feed temperature.

(e) Each owner or operator using a biological treatment unit to comply with § 63.446(f)(3) shall:

(1) Measure total HAP or methanol concentration as specified in § 63.451(i) in the influent and effluent of the process wastewater treatment system once every 30 days.

(2) Install, calibrate, maintain and operate according to manufacturer's specifications monitors for appropriate parameters as specified in the operating permit and demonstrated to the Administrator's satisfaction.

(f) Each process wastewater collection system used to comply with § 63.446 (b), (c), (d), or (e) shall comply with requirements specified:

(1) Visually inspect each closed collection system weekly and at other times as requested by the Administrator. The visual inspection shall include, but not be limited to, inspection of piping and connections to covers for evidence of visible defects.

(2) Demonstrate no detectable leaks measured initially and annually by the procedures in § 63.451(k).

(3) If visible defects in, but not limited to, piping and connections to covers are observed during an inspection required by paragraph (c) of this section; or if emissions of 500 parts per million by volume or greater above background, it shall be repaired as soon as practicable.

(i) A first effort to repair the closed collection system shall be made as soon as practicable but no later than 5 calendar days after identification.

(ii) Repair shall be completed no later than 15 calendar days after identification.

(g) An owner or operator using a device other than those specified in paragraphs (b) through (e) of this section shall establish appropriate operating parameters that will be monitored as specified in the operating permit and demonstrated to the Administrator's satisfaction.

(h) The owner or operator shall establish the parameter value for each operating parameter monitored under paragraphs (b) through (e) and (g) of this section during the initial performance test specified in § 63.451. The owner or operator complying with § 63.444(b) (2) or (3), or § 63.446(f)(4) shall use the parameter values specified in these sections.

(i) An owner or operator seeking to monitor an alternative operating parameter, or at an alternative frequency to the requirements in paragraphs (b) through (e) of this section shall first demonstrate to the Administrator's satisfaction that the alternative parameter or frequency provides continuous compliance with the applicable standards.

(j) Each owner or operator of a control device subject to the monitoring provisions of this Subpart shall operate the control device in a manner consistent with the minimum or maximum (as appropriate) operating parameter value or procedure required to be monitored under paragraphs (a) through (i) of this section and established under this Subpart. Operation of the control device below minimum operating parameter values or above maximum operating parameter values established under this Subpart or failure to perform procedures required

by this Subpart shall constitute a violation of the applicable emission standard of this Subpart.

§ 63.454 Recordkeeping.

(a) The owner or operator shall record and meet the recordkeeping requirements for § 63.10 (a), (b), and (c) for the monitoring parameters specified in § 63.453.

(b) The owner or operator shall record the monitoring parameters specified in § 63.453 and meet the requirements specified in paragraph (a) of this section for any emission point or process wastewater stream that becomes subject to the standards in this Subpart due to an increase in the flow, concentration, or mass parameters equal to or greater than the limits specified in § 63.444(a), § 63.445(a), or § 63.446 (a) or (h).

§ 63.455 Reporting.

(a) Each owner or operator of a source subject to this subpart shall submit the reports listed in paragraphs (a)(1) through (a)(5) of this section.

(1) An Initial Notification described in § 63.9 (a) through (d) and § 63.10(f).

(2) A Notification of Performance Tests specified in § 63.7 and § 63.9(g).

(3) A Notification of Compliance Status specified in § 63.9(h).

(4) Exceedance Reports specified in § 63.10(e)(3) (i) through (v) and (viii).

(i) If actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are not completely consistent with the procedures specified in the source's startup, shutdown, and malfunction plan specified in § 63.6(e)(3), the owner or operator shall state such information in the quarterly report. The startup, shutdown, and malfunction report shall consist of a letter, containing the name, title, and signature of the responsible official who is certifying its accuracy, that shall be submitted to the Administrator, and

(ii) If the seals on the secured enclosure openings specified in § 63.453(a) are broken, the duration of the event and an explanation of the reason for breaking the seal shall be included in the exceedance report.

(iii) Separate exceedance reports are not required if the information is included in the quarterly report in paragraph (a)(5) of this section.

(5) A quarterly summary report specified in § 63.10(e)(3). The summary report shall be entitled "Summary Report—Gaseous Excess Emissions and Continuous Monitoring System Performance." The quarterly report must contain any information for the Exceedance Report in paragraph (a)(4) of this section if an Exceedance Report is required.

(b) The owner or operator shall meet the requirements specified in paragraph (a) of this section for any emission point or process wastewater stream that becomes subject to the standards in this Subpart due to an increase in the flow, concentration, or mass parameters equal to or greater than the limits specified in § 63.444(a), § 63.445(a), and § 63.446 (a) and (h).

§ 63.456 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 112(d) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: The authority conferred in § 63.6(g) will not be delegated to any State.

§ 63.457 [Reserved]

§ 63.458 [Reserved]

§ 63.459 [Reserved]

3. It is proposed that Appendix A to part 63 be amended by adding Method 308 to read as follows:

Appendix A to Part 63—Test Methods

* * * * *

Method 308—Procedure for Determination of Methanol Emission from Stationary Sources

1. Applicability and Principle

1.1 Applicability. This method applies to the measurement of methanol emissions from specified stationary sources.

1.2 Principle. A gas sample is extracted from the sampling point in the stack. The methanol is collected in deionized distilled water and adsorbed on silica gel. The sample is returned to the laboratory where the methanol in the water fraction is separated from other organic compounds with a gas chromatograph (GC) and is then measured by a flame ionization detector (FID). The fraction adsorbed on silica gel is extracted with an aqueous solution of n-propanol and is then separated and measured by GC/FID.

2. Apparatus

2.1 Sampling. The sampling train is shown in Figure 308–1 and component parts are discussed below.

2.1.1 Probe. Teflon, approximately 6-mm outside diameter.

2.1.2 Impingers. Two 30-mL midget impingers. The impingers must be connected in series with leak-free glass connectors. Silicone grease may not be used to lubricate the connectors.

2.1.3 Adsorbent Tube. Glass tubes packed with the required amount of the specified adsorbent.

2.1.4 Valve. Needle valve, to regulate sample gas flow rate.

2.1.5 Pump. Leak-free diaphragm pump, or equivalent, to pull gas through the train. Install a small surge tank between the pump and rate meter to eliminate the pulsation effect of the diaphragm pump on the rotameter.

2.1.6 Rate Meter. Rotameter, or equivalent, capable of measuring flow rate to within 2 percent of the selected flow rate of about 1000 cc/min.

2.1.7 Volume Meter. Dry gas meter (DGM), sufficiently accurate to measure the sample volume to within 2 percent, calibrated at the selected flow rate and conditions actually encountered during sampling, and equipped with a temperature gauge (dial thermometer, or equivalent) capable of measuring temperature accurately to within 3°C (5.4°F).

2.1.8 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm (0.1 in.) Hg. See the note in Method 5 (40 CFR Part 60, Appendix A), Section 2.1.9.

2.1.9 Vacuum Gauge and Rotameter. At least 760-mm (30-in.) Hg gauge and 0— to 40-cc/min rotameter, to be used for leak-check of the sampling train.

2.2 Sample Recovery.

2.2.1 Wash Bottles. Polyethylene or glass, 500-mL, two.

2.2.2 Sample Vials. Glass 40-mL with Teflon-lined septa, to store impinger samples (one per sample).

2.3 Analysis.

2.3.1 Gas Chromatograph. GC with an FID, programmable temperature control, and heated liquid injection port.

2.3.2 Pump. Capable of pumping 100 mL/min. For flushing sample loop.

2.3.3 Flow Meter. To monitor accurately sample loop flow rate of 100 mL/min.

2.3.4 Regulators. Two-stage regulators used on gas cylinders for GC and for cylinder standards.

2.3.5 Recorder. To record, integrate, and store chromatograms.

2.3.6 Syringes. 1.0- and 10-microliter size, calibrated, for injecting samples.

2.3.7 Tubing Fittings. Stainless steel, to plumb GC and gas cylinders.

2.3.8 Vials. Two 5.0-mL glass vials with screw caps fitted with Teflon-lined septa for each sample. Also one for each standard for adsorbent tube samples.

2.3.9 Vials. Glass 40-mL with Teflon-lined septa, to prepare calibration standards (one per standard) for impinger samples.

3. Reagents

Unless otherwise indicated, all reagents must conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society. Where such specifications are not available, use the best available grade.

3.1 Sampling.

3.1.1 Water. Deionized distilled to conform to ASTM Specification D 1193–77, Type 3. At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

3.1.2 Silica Gel. Deactivated chromatographic grade 20/40 mesh silica gel packed in glass adsorbent tubes. The silica gel is packed in two sections. The front section contains 520 mg of silica gel, and the back section contains 260 mg.

3.2 Analysis.

3.2.1 Water. Same as 3.1.1.

3.2.2 N-Propanol, 10 Percent. Mix 10 mL of n-propanol with 90 mL of water.

3.2.3 Methanol Standards For Impinger samples. Prepare a series of methanol standards by injecting 0, 10, 20, 30, and 40 µg of methanol respectively into five 40-mL glass vials filled with water and capped with Teflon septa.

3.2.4 Methanol Standards for Adsorbent Tube Samples. Prepare a series of methanol standards by injecting 0, 10, 20, 30, and 40 µg of methanol respectively into five 5-mL glass vials capped with Teflon-lined septa and containing 3 mL of a 10% n-propanol solution.

3.2.5 GC Column. Capillary column, 30 meters long with an ID of 0.53 mm, coated with DB 624 to a film thickness of 3.0 microns, or an equivalent column.

3.2.6 Helium. Ultra high purity.

3.2.7 Hydrogen. Zero Grade.

3.2.8 Oxygen. Zero grade.

4. Procedure

4.1 Sampling.

4.1.1 Preparation of Collection Train. Measure 20 mL of water into the midget impinger. The adsorbent tube must contain 520 mg of silica gel in the front section and 260 mg of silica gel in the backup section. Assemble the train as shown in Figure 308–1. Place crushed ice and water around the impinger.

4.1.2 Leak Check. A leak-check prior to the sampling run is optional; however, a leak-check after the sampling run is mandatory. The leak-check procedure is as follows:

Temporarily attach a suitable (e.g., 0- to 40-cc/min) rotameter to the outlet of the DGM, and place a vacuum gauge at or near the probe inlet. Plug the probe inlet, pull a vacuum of at least 250 mm (10 in.) Hg, and note the flow rate as indicated by the rotameter. A leakage rate not in excess of 2 percent of the average sampling rate is acceptable.

Note: Carefully release the probe inlet plug before turning off the pump.

4.1.3 Sample Collection. Record the initial DGM reading and barometric pressure. To begin sampling, position the tip of the Teflon tubing at the sampling point, connect the tubing to the impinger, and start the pump. Adjust the sample flow to a constant rate of approximately 200 mL/min as indicated by the rotameter. Maintain this constant rate (±10 percent) during the entire sampling run. Take readings (DGM, temperatures at DGM and at impinger outlet, and rate meter) at least every 5 minutes. Add more ice during the run to keep the temperature of the gases leaving the last impinger at 20°C (68°F) or less. At the conclusion of each run, turn off the pump, remove the Teflon tubing from the stack, and record the final readings. Conduct a leak-check as in Section 4.1.2. (This leak-check is mandatory.) If a leak is found, void the test run or use procedures acceptable to the Administrator to adjust the sample volume for the leakage.

4.2 Sample Recovery.

4.2.1 Impingers. Disconnect the impingers. Pour the contents of the midget impingers into a leak-free polyethylene bottle marked for shipment. Rinse the two midget impingers and the connecting tubes with water, and add the washings to the same storage container. Mark the fluid level. Seal and identify the sample container.

4.2.2 Adsorbent Tubes. Seal the silica gel adsorbent tubes and place them in an ice chest for shipment to the laboratory.

4.3 Sample Analysis.

4.3.1 Gas Chromatograph Operating Conditions.

4.3.1.1 Injector. Configured for capillary column, splitless, 200°C.

4.3.1.2 Carrier. Helium at 10 mL/min.

4.3.1.3 Oven. Initially at 45°C for 3 minutes; then raise by 10°C to 70°C; then raise by 70°C/min to 200°C.

4.3.2 Impinger Sample.

4.3.2.1 Note level of liquid in container, and confirm whether any sample was lost during shipment; note this on analytical data sheet. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results.

4.3.2.2 Transfer the contents of the storage container to a 100-mL volumetric flask, and dilute to exactly 100 mL with water.

4.3.2.3 Inject 1 µl of the diluted sample into the gas chromatograph. Repeat the injection until the responses of two successive injections agree within 5%. If the sample response is above that of the highest calibration standard, either dilute the sample until it is in the measurement range of the calibration line or prepare additional calibration standards. If the sample response is below that of the lowest calibration standard, prepare additional calibration standards. If additional calibration standards are prepared, there shall be at least two which bracket the response of the sample. These standards should produce approximately 80% and 120% of the response of the sample.

4.3.3 Silica Gel Adsorbent Sample.

4.3.3.1 Preparation of Samples. Extract the front and backup sections of the adsorbent tube separately. With a file score the glass adsorbent tube in front of the first section of silica gel. Break the tube open. Remove and discard the glass wool. Transfer the first section of the silica gel to a 5-mL glass vial and stopper the vial. Remove the spacer between the first and second section of the adsorbent tube and discard it. Transfer the second section of silica gel to a separate 5-mL glass vial and stopper the vial.

4.3.3.2 Desorption of Samples. Add 3 mL of the 10% n-propanol solution to each of the stoppered vials and shake or vibrate the vials for 30 minutes.

4.3.3.3 Inject 1 µl of the diluted sample into the gas chromatograph. Repeat the injection until the responses of two successive injections agree within 5%. If the sample response is above that of the highest calibration standard, either dilute the sample until it is in the measurement range of the calibration line or prepare additional calibration standards. If the sample response is below that of the lowest calibration standard, prepare additional calibration standards. If additional calibration standards are prepared, there shall be at least two which bracket the response of the sample. These standards should produce approximately 80% and 120% of the response of the sample.

5. Calibration

5.1 Metering System.

5.1.1 Initial Calibration.

5.1.1.1 Before its initial use in the field, first leak-check the metering system (drying tube, needle valve, pump, rotameter, and DGM) as follows: Place a vacuum gauge at the inlet to the drying tube, and pull a vacuum of 250

mm (10 in.) Hg; plug or pinch off the outlet of the flow meter, and then turn off the pump. The vacuum shall remain stable for at least 30 seconds. Carefully release the vacuum gauge before releasing the flow meter end.

5.1.1.2 Next, remove the drying tube, and calibrate the metering system (at the sampling flow rate specified by the method) as follows: Connect an appropriately sized wet test meter (e.g., 1 liter per revolution) to the inlet of the drying tube. Make three independent calibrations runs, using at least five revolutions of the DGM per run. Calculate the calibration factor, Y (wet test meter calibration volume divided by the DGM volume, both volumes adjusted to the same reference temperature and pressure), for each run, and average the results. If any Y-value deviates by more than 2 percent from the average, the metering system is unacceptable for use. Otherwise, use the average as the calibration factor for subsequent test runs.

5.1.2 Post-Test Calibration Check. After each field test series, conduct a calibration check as in Section 5.1.1 above, except for the following variations: (a) The leak-check is not to be conducted, (b) three, or more revolutions of the DGM may be used, and (c) only two independent runs need be made. If the calibration factor does not deviate by more than 5 percent from the initial calibration factor (determined in Section 5.1.1), then the DGM volumes obtained during the test series are acceptable. If the calibration factor deviates by more than 5 percent, recalibrate the metering system as in Section 5.1.1, and for the calculations, use the calibration factor (initial or recalibration) that yields the lower gas volume for each test run.

5.2 Thermometers. Calibrate against mercury-in-glass thermometers.

5.3 Rotameter. The rotameter need not be calibrated, but should be cleaned and maintained according to the manufacturer's instruction.

5.4 Barometer. Calibrate against a mercury barometer.

5.5 Gas Chromatograph.

5.5.1 Initial Calibration. Inject 1 µl of each of the standards prepared in Section 3.3.3 into the GC and record the response. Repeat the injections for each standard until two successive injections agree within 5%. Using the mean response for each calibration standard, prepare a linear least squares equation relating the response to the mass of methanol in the sample. Perform the calibration before analyzing each set of samples.

5.5.2 Continuing Calibration. At the beginning of each day, analyze the mid-level calibration standard as described in Section 5.5.1. The response from the daily analysis must agree with the response from the initial calibration within 10%. If it does not the initial calibration must be repeated.

6. Quality Assurance

6.1 Applicability. When the method is used to analyze samples to demonstrate compliance with a source emission regulation, an audit sample must be analyzed, subject to availability.

6.2 Audit Procedure. Analyze an audit sample with each set of compliance samples. Concurrently analyze the audit sample and a set of compliance samples in the same manner to evaluate the technique of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for the compliance samples and the EPA audit sample.

6.3 Audit Sample Availability. Audit samples will be supplied only to enforcement agencies for compliance tests. Audit samples may be obtained by writing: Source Test Audit Coordinator (MD–77B), Quality Assurance Division, Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, or by calling the Source Test Audit Coordinator (STAC) at (919) 541–7834. The audit sample request must be made at least 30 days prior to the scheduled compliance sample analysis.

6.4 Audit Results. Calculate the audit sample concentration according to the calculation procedure provided in the audit instructions included with the audit sample. Fill in the audit sample concentration and the analyst's name on the audit response form included with the audit instructions. Send one copy to the EPA Regional Office or the appropriate enforcement agency and a second copy to the STAC. The EPA Regional Office or the appropriate enforcement agency will report the results of the audit to the laboratory being audited. Include this response with the results of the compliance samples in relevant reports to the EPA Regional Office or the appropriate enforcement agency.

7. Calculations

7.1 Nomenclature

E=Mass emission rate of methanol, kg/hr (lb/hr).

M_a=Mass of methanol in the front and back half of the adsorbent tube, µg.

M_i=Mass of methanol in the impinger portion of the sample train, µg.

M_{tot}=Total mass of methanol collected in the sample train, µg.

P_{bar}=Barometric pressure at the exit orifice of the DGM, mm Hg (in. Hg).

P_{std}=Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

Q_{std}=Dry volumetric stack gas flow rate corrected to standard conditions, dscm/hr (dscf/hr).

T_m=Average DGM absolute temperature, K (R).

T_{std}=Standard absolute temperature, 293 K (528 R).

V_a=Volume of sample aliquot titrated, ml.

V_m=Dry gas volume as measured by the DGM, dcm (dcf).

$V_{m(std)}$=Dry gas volume measured by the DGM, corrected to standard conditions, dscm (dscf).

7.2 Mass of Methanol. Calculate the total mass of methanol collected in the sampling train using Equation 308–1.

$$M_{tot} = M_i + M_a \qquad \text{Equation 308-1}$$

7.3 Dry Sample Gas Volume, Corrected to Standard Conditions. Calculate the volume of gas sampled at standard conditions using Equation 308–2.

$$V_m(std) = \frac{V_m Y T_{std} P_{bar}}{T_m P_{std}} \qquad \text{Equation 308-2}$$

7.4 Mass Emission Rate of Methanol. Calculate the mass emission rate of methanol using Equation 308–3.

$$E = \frac{M_{tot} Q_{sd}}{V_{m(std)}} \qquad \text{Equation 308-3}$$

8. Bibliography

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Superintendent of Documents, Government Printing Office, Washington, DC 20402.

6. Pinkerton, J. E. Method for Measuring Methanol in Pulp Mill Vent Gases. National Council of the Pulp and Paper Industry for Air and Stream Improvement, Inc., New York, NY.

1. Part 430 is revised to read as follows:

PART 430—THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

General Provisions

Sec.
430.00 Applicability
430.01 General definitions
430.02 Monitoring requirements
430.03 Best management practices plans for pulping liquor management, spill prevention, and control

Subpart A—Dissolving Kraft Subcategory

Sec.
430.10 Applicability; description of the dissolving kraft subcategory.
430.11 Specialized definitions.
430.12 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.13 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT).
430.14 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
430.15 New source performance standards (NSPS).
430.16 Pretreatment standards for existing sources (PSES). [Reserved]
430.17 Pretreatment standards for new sources (PSNS).
430.18 Best management practices (BMPs).

Subpart B—Bleached Papergrade Kraft and Soda Subcategory

Sec.
430.20 Applicability; description of the bleached papergrade kraft and soda subcategory.
430.21 Specialized definitions.
430.22 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.24 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
430.25 New source performance standards (NSPS).
430.26 Pretreatment standards for existing sources (PSES).
430.27 Pretreatment standards for new sources (PSNS).
430.28 Best management practices (BMPs).

Subpart C—Unbleached Kraft Subcategory

Sec.
430.30 Applicability; description of the unbleached kraft subcategory.
430.31 Specialized definitions.
430.32 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.34 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
430.35 New source performance standards (NSPS).
430.36 Pretreatment standards for existing (PSES).
430.37 Pretreatment standards for new sources (PSNS).
430.38 Best management practices (BMPs).

Subpart D—Dissolving Sulfite Subcategory

Sec.
430.40 Applicability; description of the dissolving sulfite subcategory.
430.41 Specialized definitions.
430.42 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.44 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
430.45 New source performance standards (NSPS).
430.46 Pretreatment standards for existing sources (PSES). [Reserved]
430.47 Pretreatment standards for new sources (PSNS).
430.48 Best management practices (BMPs).

Subpart E—Papergrade Sulfite Subcategory

Sec.
430.50 Applicability; description of the papergrade sulfite subcategory.
430.51 Specialized definitions.
430.52 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.54 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
430.55 New source performance standards (NSPS).
430.56 Pretreatment standards for existing sources (PSES).
430.57 Pretreatment standards for new sources (PSNS).
430.58 Best management practices (BMPs).

Subpart F—Semi-Chemical Subcategory

Sec.
430.60 Applicability; description of the semi-chemical subcategory.
430.61 Specialized definitions.
430.62 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.64 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
430.65 New source performance standards (NSPS).
430.66 Pretreatment standards for existing sources (PSES).
430.67 Pretreatment standards for new sources (PSNS).
430.68 Best management practices (BMPs).

Subpart G—Mechanical Pulp Subcategory

Sec.
430.70 Applicability; description of the mechanical pulp subcategory.
430.71 Specialized definitions.
430.72 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.74 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]
430.75 New source performance standards (NSPS).
430.76 Pretreatment standards for existing sources (PSES). [Reserved]
430.77 Pretreatment standards for new sources (PSNS). [Reserved]
430.78 Best management practices (BMPs) [Reserved]

Subpart H—Non-Wood Chemical Pulp Subcategory

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430.80 Applicability; description of the non-wood chemical pulp subcategory.
430.81 Specialized definitions.

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430.82 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.84 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]
430.85 New source performance standards (NSPS).
430.86 Pretreatment standards for existing sources (PSES). [Reserved]
430.87 Pretreatment standards for new sources (PSNS). [Reserved]
430.88 Best management practices (BMPs).

Subpart I—Secondary Fiber Deink Subcategory

Sec.
430.90 Applicability; description of the secondary fiber deink subcategory.
430.91 Specialized definitions.
430.92 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.94 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]
430.95 New source performance standards (NSPS).
430.96 Pretreatment standards for existing sources (PSES). [Reserved]
430.97 Pretreatment standards for new sources (PSNS). [Reserved]
430.98 Best management practices (BMPs). [Reserved]

Subpart J—Secondary Fiber Non-Deink Subcategory

Sec.
430.100 Applicability; description of the secondary fiber non-deink subcategory.
430.101 Specialized definitions.
430.102 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.104 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]
430.105 New source performance standards (NSPS).
430.106 Pretreatment standards for existing sources (PSES). [Reserved]
430.107 Pretreatment standards for new sources (PSNS). [Reserved]
430.108 Best management practices (BMPs). [Reserved]

Subpart K—Fine and Lightweight Papers From Purchased Pulp Subcategory

Sec.
430.110 Applicability; description of the fine and lightweight papers from purchased pulp subcategory.
430.111 Specialized definitions.
430.112 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.114 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]
430.115 New source performance standards (NSPS).
430.116 Pretreatment standards for existing sources (PSES). [Reserved]
430.117 Pretreatment standards for new sources (PSNS). [Reserved]
430.118 Best management practices (BMPs). [Reserved]

Subpart L—Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp Subcategory

Sec.
430.120 Applicability; description of the tissue, filter, non-woven, and paperboard from purchased pulp subcategory.
430.121 Specialized definitions.
430.122 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
430.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
430.124 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]
430.125 New source performance standards (NSPS).
430.126 Pretreatment standards for existing sources (PSES). [Reserved]
430.127 Pretreatment standards for new sources (PSNS). [Reserved]
430.128 Best management practices (BMPs). [Reserved]

Authority: Sections 301, 304, 306, 307, and 501, Pub. L. 95–217, 91 Stat. 156, and Pub. L. 100–4 (33 U.S.C. 1311, 1314, 1316, 1317, and 1361).

General Provisions

§ 430.00 Applicability.

This part applies to any pulp, paper, or paperboard mill that discharges or may discharge process wastewater pollutants to the waters of the United States, or that introduces or may introduce process wastewater pollutants into a publicly owned treatment works. The provisions of this subpart are also applicable to discharges resulting from the production of builders' paper and roofing felt from wastepaper, previously part 431, the builders' paper and roofing felt subcategory. EPA is proposing to include mills that produce builders' paper and roofing felt from wastepaper in part 430, subpart J, and to eliminate part 431.

§ 430.01 General definitions.

In addition to the definitions set forth in 40 CFR part 401, the following definitions shall apply to this part:

(a) Adsorbable organic halides (AOX)—A bulk parameter that measures the total mass of chlorinated organic matter in water and wastewater.

(b) Annual average—The mean concentration, mass loading or production-normalized mass loading of a pollutant over a period of 365 consecutive days (or such other period of time determined by the permitting authority to be sufficiently long to encompass expected variability of the concentration, mass loading, or production-normalized mass loading at the relevant point of measurement).

(c) Bleach plant—All process equipment beginning with the first application of bleaching agents (e.g., chlorine, chlorine dioxide, ozone, sodium or calcium hypochlorite, peroxide), each subsequent extraction stage, and each subsequent stage where bleaching agents are applied to the pulp. A limited number of mills produce specialty grades of pulp using hydrolysis or extraction stages prior to the first application of bleaching agents. The bleach plant includes those pulp pretreatment stages. Oxygen delignification prior to the application of bleaching agents is not part of the bleach plant.

(d) Bleach plant effluent—The total discharge of process wastewaters from the bleach plant from each physical bleach line operated at the mill, comprising separate acid and alkaline filtrates or the combination thereof.

(e) Chemical oxygen demand (COD)—A bulk parameter that measures the oxygen-consuming capacity of refractory organic and inorganic matter present in water or wastewater. It is expressed as

the amount of oxygen consumed from a chemical oxidant in a specific test.

(f) Conventional pollutants—The pollutants identified in § 304(a)(4) of the CWA and the regulations thereunder (biochemical oxygen demand (BOD_5), total suspended solids (TSS), oil and grease, pH, and fecal coliform).

(g) Elemental chlorine-free (ECF)—Any process for bleaching pulps in the absence of elemental chlorine.

(h) End-of-pipe effluent—Final mill effluent discharged to waters of the United States or to a POTW.

(i) Minimum level—The level at which the analytical system gives recognizable signals and an acceptable calibration point.

(j) New source—EPA's NPDES regulations define the term "new source" at 40 CFR § 122.2 and § 122.29. The following examples supplement those definitions for the pulp, paper, and paperboard industry only.

(1) The following are examples of "new sources" within the pulp, paper, and paperboard industry:

(i) At existing chemical pulp mills with bleaching operations, (Subparts A, B, D and E): the construction, within any five year period, of

(A) a new pulping digester or pulping digester that completely replaces an existing digester, in combination with

(B) a new bleaching facility or bleaching facility that completely replaces an existing bleaching facility.

(ii) At existing chemical pulp mills without bleaching operations (Subparts C, F, and H):

(A) new pulping digester(s); or

(B) new pulping digester(s) that totally replace(s) an existing pulping digester.

(iii) At mechanical pulp, secondary fiber, and non-integrated mills (Subparts G, I, J, K, and L):

(A) a new paper or paperboard machine; or

(B) a paper or paperboard machine that totally replaces a paper or paperboard machine.

(2) The following are examples of changes in the pulp, paper, and paperboard industry that alone do not cause an existing mill to become a "new source":

(i) upgrades of existing pulping operations;

(ii) upgrades or replacement of pulp screening and washing operations;

(iii) installation of oxygen delignification systems or other post-digester, prebleaching delignification systems; and,

(iv) bleach plant modifications including changes in method or amounts of chemical applications, new chemical applications, installation of new bleaching towers to facilitate replacement of sodium or calcium hypochlorite, and installation of new pulp washing systems.

(k) Non-continuous discharger—Discharge of wastewaters stored for periods of at least 24 hours and released on a batch basis.

(l) Nonconventional pollutants—Pollutants that are neither conventional pollutants nor toxic pollutants.

(m) Non-detect (ND) limitation—A concentration-based measurement reported below the minimum level that can be reliably measured by the analytical method for the pollutant. The following minimum levels (for water samples only) and analytical methods apply to pollutants in this part.

Pollutant	Method	Minimum level
2,3,7,8–TCDD	1613	10 pg/L.
2,3,7,8–TCDF	1613	10 pg/L.
Chloroform	1624	10 µg/L.
Acetone	1624	50 µg/L.
Methyl ethyl ketone	1624	50 µg/L.
Methylene chloride	1624	10 µg/L.
Trichlorosyringol	1653	2.5 µg/L.
3,4,5–Trichlorocatechol	1653	5.0 µg/L.
3,4,6–Trichlorocatechol	1653	5.0 µg/L.
3,4,5–Trichloroguaiacol	1653	2.5 µg/L.
3,4,6–Trichloroguaiacol	1653	2.5 µg/L.
4,5,6–Trichloroguaiacol	1653	2.5 µg/L.
2,4,5–Trichlorophenol	1653	2.5 µg/L.
2,4,6–Trichlorophenol	1653	2.5 µg/L.
Tetrachlorocatechol	1653	5.0 µg/L.
Tetrachloroguaiacol	1653	5.0 µg/L.
2,3,4,6–Tetrachlorophenol	1653	2.5 µg/L.
Pentachlorophenol	1653	5.0 µg/L.
AOX	1650	20 µg/L.
COD	410.1 or 410.2	Specified in 40 CFR 136.
Color	NCASI 253	N/A.
BOD_5	(*)	(*)
TSS	(*)	(*)

*As specified in 40 CFR 136.

(n) POTW—Publicly owned treatment works as defined at § 403.3 (o).

(o) Process wastewater—Any water which during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. For purposes of this part, process wastewater includes boiler blowdown; wastewaters from water treatment and other utility operations; blowdowns from high rate (e.g., greater than 98 percent) recycled non-contact cooling water systems to the extent they are mixed and co-treated with other process wastewaters; and, stormwaters from the immediate process areas to the extent they are mixed and co-treated with other process wastewaters. For purposes of this part, contaminated groundwaters from on-site or off-site groundwater remediation projects are not process wastewaters. The discharge of such groundwaters must be regulated separately, or in addition to, process wastewaters.

(1) The following process materials are excluded from the definition of process wastewater:

(i) Pulping Liquors: Green liquor at any liquor solids level; White liquor at any liquor solids level; Black liquor at any liquor solids level resulting from processing knots and screen rejects; Black liquor after any degree of

concentration in the kraft or soda chemical recovery process; Reconstituted sulfite and semi-chemical pulping liquors prior to use; Any pulping liquor at any liquor solids level resulting from spills or intentional diversions from the process;

(ii) Lime mud and magnesium oxide, except to the extent they are used for wastewater treatment or effluent pH control;

(iii) Pulp stock;

(iv) Bleach chemical solutions prior to use;

(v) Paper making additives prior to use (e.g., alum, starch and size, clays and coatings).

The discharge of these process materials into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

(p) Product—As used in the regulation tables, "product" means:

(1) For TSS and BOD_5 effluent limitations applied at the end-of-pipe, the annual off-the-machine production (including additives and coatings, at off-the-machine moisture for paper and paperboard and at 10 per cent moisture for market pulp) divided by the number of operating days of the paper machine during the year;

(2) For COD and color effluent limitations applied at the end-of-pipe, the annual unbleached pulp production (at 10 percent moisture) divided by the number of operating days of the pulp mill during the year; or

(3) For effluent limitations on all other pollutants, either at the bleach plant (2,3,7,8–TCDD, 2,3,7,8–TCDF, chlorinated phenolic compounds, volatile compounds) or at end-of-pipe AOX, the annual unbleached pulp production that enters the bleach plant (at 10 percent moisture) divided by the number of operating days of the bleach line.

Production in each of the foregoing cases shall be determined for each mill based upon the highest annual production in the past five years divided by the number of operating days that year.

(q) Purchased pulp—Virgin pulp purchased from an off-site facility or obtained from an intra-company transfer from another site.

(r) Totally chlorine-free (TCF)—Any process for bleaching pulps in the absence of both chlorine and chlorine-containing compounds.

(s) Toxic pollutants—The pollutants designated by EPA as toxic in 40 CFR § 401.15.

(t) Zero discharge (ZD)—No discharge of wastewater to waters of the United States or to a POTW.

§ 430.02 Monitoring requirements.

The following monitoring requirements apply to this part:

CAS No.	Pollutant	Monitoring frequency	
		BPE	FE
1198556	Tetrachlorocatechol	Monthly	None.
2539175	Tetrachloroguiacol		
2539266	Trichlorosyringol		
2668248	4,5,6-trichloroguaiacol		
32139723	3,4,6-trichlorocatechol		
56961207	3,4,5-trichlorocatechol		
57057837	3,4,5-trichloroguaiacol		
58902	2,3,4,6-tetrachlorophenol		
60712449	3,4,6-trichloroguaiacol		
87865	pentachlorophenol		
88062	2,4,6-trichlorophenol		
95954	2,4,5-trichlorophenol		
1746016	2,3,7,8–TCDD	Monthly	None.
51207319	2,3,7,8–TCDF		
67641	2-propanone (acetone)	Weekly	None.
67663	chloroform		
75092	methlyene chloride		
78933	2-butanone (MEK)		
59473040	AOX	None	Daily.
Color	Color		
1004	COD		
1002	BOD		
1009	TSS		

BPE=Bleach Plant Effluent.
FE=Final Effluent.

§ 430.03 Best management practices plans for pulping liquor management, spill prevention, and control.

(a) The provisions of this part are applicable to pulp, paper and paperboard mills with pulp production in Subparts A (Dissolving Kraft), B (Bleached Papergrade Kraft and Soda), C (Unbleached Kraft), D (Dissolving Sulfite), E (Papergrade Sulfite), F (Semi-Chemical), or H (Non-Wood Chemical Pulp).

(b) Specialized definitions

(1) Board of review—A meeting among process operators, maintenance personnel, process engineering personnel, supervisory personnel, and environmental control staff conducted as soon as practicable after a pulping liquor spill or intentional pulping liquor diversion that is not contained within the immediate process area. The purpose of the board of review is to review the circumstances leading to the incident, to review the effectiveness of the corrective actions taken, and to develop changes to equipment and operating and maintenance practices to prevent recurrence.

(2) Immediate process area—The location at the mill where pulping, screening, knotting, pulp washing, pulping liquor concentration or processing, chemical recovery, and pulping liquor preparation facilities are located, generally the battery limits of

the aforementioned processes. "Immediate process area" includes pulping liquor storage and spill control tanks located at the mill, whether or not they are located in the immediate process area.

(3) Pulping liquor—Any intermediate or final chemical solution used for digesting or cooking wood or non-wood fibrous materials in kraft, sulfite, semi-chemical or non-wood chemical pulping processes (e.g., green, white, and black kraft liquors; ammonium, calcium, magnesium and sodium base sulfite liquors; semi-chemical liquors; and, non-wood chemical liquors).

(4) Equipment in pulping liquor service—Any process vessel, storage tank, pumping system, evaporator, heat exchanger, recovery furnace or boiler, pipeline, valve, fitting, or other device that contains, processes, transports, or comes into contact with pulping liquor.

(c) Owners or operators of pulp, paper, or paperboard mills with pulp production in Subparts A, B, C, D, E, F, or H shall prepare and implement a Best Management Practices Plan, hereafter referred to as a "BMPs plan," for each mill on or before the compliance dates set out in this part. New sources must develop BMPs plans, and these plans must be incorporated in their NPDES permits prior to discharging. The BMPs plan shall contain the elements set out in, and be prepared in accordance with, § 430.03(j). The BMPs plan shall be prepared within 120 days from the effective date of this part and shall be fully implemented within thirty months from the effective date of this part.

(d) The BMPs plan shall contain the following key elements:

(1) Engineering analyses,

(2) engineered controls and containment,

(3) work practices,

(4) preventive maintenance,

(5) dedicated monitoring and alarm systems,

(6) surveillance and repair programs, and

(7) employee training. The principal objective of the BMPs plan shall be to prevent losses and spills of pulping liquors from equipment items in pulping liquor service; the secondary objectives shall be to contain, collect, and recover at the immediate process area, or otherwise control, those spills and losses that do occur, and to minimize atmospheric emissions of total reduced sulfur compounds and hazardous air pollutants.

(e) No BMPs plan shall be effective to satisfy the requirements of this part unless it has been reviewed by a registered professional engineer and certified to by such registered professional engineer. By means of this certification, the engineer, having examined the mill and being familiar with the provisions of this part, shall attest that the BMPs plan has been prepared in accordance with good engineering practices. Such certification shall in no way relieve the owner or operator of the mill of the obligation to prepare and fully implement the BMPs plan in accordance with § 430.03(j), as required by paragraph (a) of this section.

(f) The owner or operator of a mill for which a BMPs plan is required by paragraph (a) of this section shall maintain a complete copy of the plan at such mill at all times and shall make such plan available to the Regional Administrator or his designee for on-site review during normal working hours.

(g) The owner or operator of a mill subject to § 430.03 shall amend the BMPs plan for such mill in accordance with § 430.03(j) whenever there is a change in mill design, construction, operation or maintenance which materially affects the potential for spills or losses of pulping liquor from the immediate process areas.

(h) Notwithstanding compliance with paragraph (a) of this section, the owner or operator of a mill subject to § 430.03 shall complete a review and evaluation of the BMPs plan at least once every three years from the date such mill becomes subject to this part. As a result of this review and evaluation, the owner or operator shall amend the BMPs plan within six months of the review to include any management practices or technologies that would significantly reduce the likelihood of pulping liquor losses from the immediate process areas.

(i) No amendment to a BMPs plan shall be effective to satisfy the requirements of this section unless it has been certified by a registered professional engineer in accordance with § 430.03(e).

(j) The BMPs plan shall be prepared in accordance with good engineering practice. If the BMPs plan calls for additional management practices, facilities or procedures, methods, or equipment not fully operational, the details of the installation and the operational start-up should be explained. The complete BMPs plan shall contain the elements described below:

(1) The BMPs plan shall be approved and signed by the mill manager.

(2) A detailed engineering review of the pulping and chemical recovery operations, including but not limited to process equipment, storage tanks, pipelines and pumping systems, loading and unloading facilities, and other appurtenant pulping and chemical recovery equipment items in pulping liquor service, to determine the magnitude and routing of potential leaks, spills and intentional pulping liquor diversions during the following periods of operation:

(i) process start-ups and shut downs;

(ii) maintenance;

(iii) grade changes;

(iv) storm events;

(v) power failures; and

(vi) normal operations.

(3) A detailed engineering review of existing pulping liquor containment facilities for the purpose of determining whether there is adequate capacity for collection and storage of anticipated intentional liquor diversions with sufficient contingency for collection and containment of spills, based upon good engineering practice. Secondary containment equivalent to the volume of the largest tank plus sufficient freeboard for precipitation should be provided for bulk storage tanks. The engineering review shall also consider the need for process wastewater diversion facilities to protect end-of-pipe wastewater treatment facilities from adverse effects of pulping liquor spills and diversions; the potential for contamination of storm water from the immediate process areas; the extent to which segregation and/or collection and treatment of contaminated storm water from the immediate process areas is appropriate; and the potential to reduce atmospheric emissions of total reduced sulfur compounds and hazardous air pollutants.

(4) Development and implementation of preventive maintenance practices, standard operating procedures, work practices, engineered controls and monitoring systems to prevent liquor losses and to divert pulping liquors to containment facilities such that the diverted or spilled liquors may be returned to the process or metered to the wastewater treatment system.

(5) A program of regular visual inspections (at least once per operating shift) of equipment items in pulping liquor service and a program for repair of leaking equipment items. The repair program shall encompass immediate repairs when possible and tagging for repair during the next maintenance outage those leaking equipment items that cannot be repaired during normal operations. The owner or operator of the mill shall also establish conditions under which production will be curtailed or halted to repair leaking equipment items or prevent liquor losses. The repair program shall include tracking repairs over time to identify those equipment items where upgrade or replacement may be warranted based

upon frequency and severity of leaks or failures. The owner or operator shall maintain logs showing the date pulping liquor leaks were detected, the type of pulping liquor (e.g., weak black liquor, intermediate black liquor, strong black liquor), an estimate of the magnitude of the leak, the date of first attempt at repair, and the date of final repair. The logs shall be maintained at the mill for review by the Regional Administrator or his designee during normal working hours.

(6) A program of initial and refresher training of operators, maintenance personnel, and other technical and supervisory personnel who have responsibility for operating, maintaining, or supervising the operation and maintenance of equipment items and systems in pulping liquor service. The refresher training shall be conducted annually. The training shall be documented and records of training shall be maintained at the mill for review by the Regional Administrator or his designee during normal working hours.

(7) A program of "boards of review" to evaluate each spill not contained at the immediate process area and any intentional pulping liquor diversion not contained in the immediate process area. The boards of review shall be conducted as soon as practicable after the event and shall be attended by the involved process operators, maintenance personnel, process engineering personnel, and supervisory personnel and environmental control staff. A brief report shall be prepared for each board of review. The report shall describe the equipment items involved, the circumstances leading to the incident, the effectiveness of the corrective actions taken, and plans to develop changes to equipment and operating and maintenance practices to prevent recurrence. Reports of the boards of review shall be included as part of the annual refresher training.

(8) A program to review any planned modifications to the pulping and chemical recovery facilities and any construction activities in the pulping and chemical recovery areas before these activities commence. The purpose of the reviews shall be to ensure that pulping liquor spill prevention and control is considered as part of the planned modifications and that construction and supervisory personnel are aware of possible liquor diversions and the potential for liquor spills during construction.

(9) A schedule not to exceed thirty months from the effective date of this part for construction of any pulping liquor containment or diversion facilities necessary to fully implement the BMPs plan. A schedule not to exceed eighteen months from the effective date of this part for installation or upgrade of continuous, automatic monitoring systems, including but not limited to, high level monitors and alarms on existing storage tanks, process area conductivity (or pH) monitoring and alarms, and process area sewer, process wastewater, and wastewater treatment plant conductivity (or pH) monitoring and alarms. Notwithstanding any construction activities, the owner or operator shall begin implementing all other aspects of the BMPs plan not later than four months from the effective date of this part.

Subpart A—Dissolving Kraft Subcategory

§ 430.10 Applicability; description of the dissolving kraft subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at dissolving kraft mills. This subcategory includes, but is not necessarily limited to, mills using an alkaline sodium hydroxide and sodium sulfide cooking liquor with acid prehydrolysis.

(b) To qualify for alternative limitations at § 430.14, § 430.15, § 430.16, and § 430.17, the owner or operator of the facility must certify, in the NPDES permit application or pretreatment baseline monitoring report, that chlorine or chlorine-containing compounds are not used for pulp bleaching. In addition, the owner or operator of the facility must provide, as a part of the NPDES permit application or pretreatment baseline monitoring report, monitoring results for three composite bleach plant wastewater samples for CDDs/CDFs and chlorinated phenolics, and three grab samples for chloroform and methylene chloride. Such samples shall be obtained at approximately weekly intervals.

(c) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.11 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	8.21	4.90	3.51
TSS	17.0	6.84	4.85

§ 430.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.12 of this subpart for the best practicable control technology currently available (BPT).

§ 430.14 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent limitations.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Monthly average
TCDD	300 ng/kkg	N/A.
TCDF	415 ng/kkg	N/A.
Chloroform	10.1 g/kkg	7.06 g/kkg.
Acetone	35.1 g/kkg	17.2 g/kkg.
Methyl ethyl ketone	1.89 g/kkg	1.04 g/kkg.
Methylene chloride	ND	N/A.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	5690 mg/kkg	N/A.
3,4,6-trichlorocatechol	180 mg/kkg	N/A.
3,4,5-trichloroguaiacol	2230 mg/kkg	N/A.
3,4,6-trichloroguaiacol	97.7 mg/kkg	N/A
4,5,6-trichloroguaiacol	400 mg/kkg	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	2180 mg/kkg	N/A.
tetrachlorocatechol	554 mg/kkg	N/A.
tetrachloroguaiacol	134 mg/kkg	N/A.
2,3,4,6-tetrachlorophenol	223 mg/kkg	N/A.
pentachlorophenol	ND	N/A.

(b) The following limitations shall apply to the end-of-pipe effluent of all dischargers not using a TCF process:

END-OF-PIPE EFFLUENT

Pollutant or pollutant property	BAT effluent limitations	Continuous dischargers	Non-continuous dischargers	
		Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day
AOX	1.67	0.650	N/A	0.553
COD	118	84.1	N/A	70.3

(c) The following limitations shall apply to the end-of-pipe effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[End-of-Pipe Effluent]

Pollutant or pollutant parameter	BAT effluent limitations			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly Average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	118	84.1	N/A	70.3

§ 430.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Monthly average
TCDD	300 ng/kkg	N/A.
TCDF	415 ng/kkg	N/A.
Chloroform	10.1 g/kkg	7.06 g/kkg.
Acetone	35.1 g/kkg	17.2 g/kkg.
Methyl ethyl ketone	1.89 g/kkg	1.04 g/kkg.
Methylene chloride	ND	N/A.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	5690 mg/kkg	N/A.
3,4,6-trichlorocatechol	180 mg/kkg	N/A.
3,4,5-trichloroguaiacol	2230 mg/kkg	N/A.
3,4,6-trichloroguaiacol	97.7 mg/kkg	N/A.
4,5,6-trichloroguaiacol	400 mg/kkg	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	2180 mg/kkg	N/A.
tetrachlorocatechol	554 mg/kkg	N/A.
tetrachloroguaiacol	134 mg/kkg	N/A.
2,3,4,6-tetrachlorophenol	223 mg/kkg	N/A.
pentachlorophenol	ND	N/A.

(b) The following standards shall apply to the end-of- pipe effluent of all dischargers:

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	8.21	4.90	3.51
TSS	17.0	6.84	4.85

(c) The following limitations shall apply to the end-of-pipe effluent of all dischargers not using a TCF process:

END-OF-PIPE EFFLUENT

Pollutant or pollutant property	New source performance standards			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	1.67	0.650	N/A	0.553
COD	118	84.1	N/A	70.3

(d) The following standards shall apply to the end-of-pipe effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT STANDARDS FOR FACILITIES USING TCF PROCESSFS

[End-of-Pipe Effluent]

Pollutant or pollutant parameter	New source performance standards			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	118	84.1	N/A	70.3

§ 430.16 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.17 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Monthly average
TCDD	300 ng/kkg	N/A.
TCDF	415 ng/kkg	N/A.
Chloroform	10.1 g/kkg	7.06 g/kkg.
Acetone	35.1 g/kkg	17.2 g/kkg.
Methyl ethyl ketone	1.89 g/kkg	1.04 g/kkg.
Methylene chloride	ND	N/A.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	5690 mg/kkg	N/A.
3,4,6-trichlorocatechol	180 mg/kkg	N/A.
3,4,5-trichloroguaiacol	2230 mg/kkg	N/A.
3,4,6-trichloroguaiacol	97.7 mg/kkg	N/A.
4,5,6-trichloroguaiacol	400 mg/kkg	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	2180 mg/kkg	N/A.
tetrachlorocatechol	554 mg/kkg	N/A.
tetrachloroguaiacol	134 mg/kkg	N/A.
2,3,4,6-tetrachlorophenol	223 mg/kkg	N/A.
pentachlorophenol	ND	N/A

(b) The following standards shall apply to the discharge-to-the-POTW effluent of all dischargers not using a TCF process:

DISCHARGE-TO-THE-POTW

Pollutant or pollutant property	Pretreatment standards for new sources			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	1.67	0.650	N/A	0.553
COD	118	84.1	N/A	70.3

(c) The following standards shall apply to the discharge-to-the-POTW effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT STANDARDS FOR FACILITIES USING TCF PROCESSES

[Discharge-to-the-POTW]

Pollutant or pollutant parameter	Pretreatment standards for new sources			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	118	84.1	N/A	70.3

§ 430.18 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR § 430.03 apply to this subpart.

Subpart B—Bleached Papergrade Kraft and Soda Subcategory

§ 430.20 Applicability; description of the bleached kraft and soda subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at bleached kraft and soda mills. This subcategory includes, but is not limited to, mills that produce a bleached kraft wood pulp using an alkaline sodium hydroxide and sodium sulfide cooking liquor. This subcategory also includes, but is not limited to, mills that produce bleached soda wood pulp using an alkaline sodium hydroxide cooking liquor.

(b) To qualify for alternative limitations at § 430.24, § 430.25, § 430.26, and § 430.27, the owner or operator of the facility must certify, in the NPDES permit application or pretreatment baseline monitoring report, that chlorine or chlorine-containing compounds are not used for pulp bleaching. In addition, the owner or operator of the facility must provide, as a part of the NPDES permit application or pretreatment baseline monitoring report, monitoring results for three composite bleach plant wastewater samples for CDDs/CDFs and chlorinated phenolics, and three grab samples for chloroform and methylene chloride. Such samples shall be obtained at approximately weekly intervals.

(c) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.21 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly Average	
BOD_5	4.26	2.19	1.57
TSS	8.75	3.89	2.72

§ 430.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.22 of this subpart for the best practicable control technology currently available (BPT).

§ 430.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best

available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent limitations.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.
TCDF	359 ng/kkg	N/A.
Chloroform	5.06 g/kkg	2.01 g/kkg.
Acetone	43.0 g/kkg	21.9 g/kkg.
Methyl ethyl ketone	3.81 g/kkg	1.75 g/kkg.
Methylene chloride	1.33 g/kkg	0.518 g/kkg.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A.
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
4,5,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	78.6 mg/kkg	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	ND	N/A.
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following limitations shall apply to the end-of-pipe effluent of all dischargers not using a TCF process:

END-OF-PIPE EFFLUENT

Pollutant or pollutant property	BAT effluent limitations			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	0.267	0.156	N/A	0.143
COD	35.7	25.4	N/A	21.3
Color	120	76.3	N/A	71.2

(c) The following limitations shall apply to the end-of-pipe effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[End-of-Pipe Effluent]

Pollutant or pollutant parameter	BAT effluent limitations			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	35.7	25.4	N/A	21.3
Color	120	76.3	N/A	71.2

§ 430.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.
TCDF	329 ng/kkg	N/A.
Acetone	12.0 g/kkg	6.09 g/kkg.
Methylene chloride	ND	N/A.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A.
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	ND	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	ND	N/A.
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following standards shall apply to the end-of-pipe effluent of all dischargers:

END-OF-PIPE

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly Average	
BOD_5	0.726	0.365	0.262
TSS	0.988	0.383	0.241

(c) The following standards shall apply to the end-of-pipe effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[End-of-Pipe Effluent]

Pollutant or pollutant parameter	New source performance standards			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A

§ 430.26 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for existing sources (PSES), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.

BLEACH PLANT EFFLUENT—Continued

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Monthly average
TCDF	359 ng/kkg	N/A.
Chloroform	5.06 g/kkg	2.01 g/kkg.
Acetone	43.0 g/kkg	21.9 g/kkg.
Methyl ethyl ketone	3.81 g/kkg	1.75 g/kkg.
Methylene chloride	1.33 g/kkg	0.518 g/kkg.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A.
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
4,5,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	78.6 mg/kkg	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	ND	N/A.
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following standards shall apply to the discharge-to-the-POTW effluent of all dischargers not using a TCF process:

DISCHARGE-TO-THE-POTW

Pollutant or pollutant property	Pretreatment standards for existing sources			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	0.267	0.156	N/A	0.143
COD	35.7	25.4	N/A	21.3
Color	120	76.3	N/A	71.2

(c) The following standards shall apply to the discharge-to-the-POTW effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[Discharge-to-the-POTW]

Pollutant or pollutant parameter	Pretreatment standards for existing sources			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	35.7	25.4	N/A	21.3
Color	120	76.3	N/A	71.2

§ 430.27 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.
TCDF	329 ng/kkg	N/A.
Acetone	12.0 g/kkg	6.09 g/kkg.
Methylene chloride	ND	N/A.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	ND	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	ND	N/A.
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following standards shall apply to the discharge-to-the-POTW effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[Discharge-to-the-POTW]

Pollutant or pollutant parameter	Pretreatment standards for new sources			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A

§ 430.28 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR § 430.03 apply to this subpart.

Subpart C—Unbleached Kraft Subcategory

§ 430.30 Applicability; description of the unbleached kraft subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at unbleached kraft mills. This subcategory includes, but is not limited to, mills that produce kraft wood pulp without bleaching, using an alkaline sodium hydroxide and sodium sulfide cooking liquor. This subcategory also includes, but is not limited to, mills that produce both unbleached kraft and semi-chemical wood pulps with cross-recovery processes.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.31 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	4.19	1.90	1.32
TSS	8.14	3.45	2.57

§ 430.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.32 of this subpart for the best practicable control technology currently available (BPT).

§ 430.34 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	BAT effluent limitations		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
COD	40.2	24.6	20.8

§ 430.35 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards.Non-continuous dischargers shall be subject to the annual average mass effluent standards.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	0.736	0.315	0.236
TSS	1.87	0.892	0.685
COD	40.2	24.6	20.8

§ 430.36 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for existing sources (PSES), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW annual average mass effluent standards.

DISCHARGE-TO-THE-POTW

Pollutant or pollutant parameter	Pretreatment standards for existing sources		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly Average	
COD	40.2	24 6	20 8

§ 430.37 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW annual average mass standards.

DISCHARGE-TO-THE-POTW

Pollutant or pollutant parameter	Pretreatment standards for existing sources		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
COD	40.2	24.6	20.8

§ 430.38 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR § 430.03 apply to this subpart.

Subpart D—Dissolving Sulfite Subcategory

§ 430.40 Applicability; description of the dissolving sulfite subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at dissolving sulfite mills. This subcategory includes, but is not limited to, mills using acidic cooking liquors of calcium, magnesium, ammonium, or sodium sulfites. This subcategory includes mills that manufacture dissolving grade sulfite pulps and papergrade sulfite pulps at the same site.

(b) To qualify for alternative limitations at § 430.44, § 430.45, § 430.46, and § 430.47, the owner or operator of the facility must certify, in the NPDES permit application or pretreatment baseline monitoring report, that chlorine or chlorine-containing compounds are not used for pulp bleaching. In addition, the owner or operator of the facility must provide, as a part of the NPDES permit application or pretreatment baseline monitoring report, monitoring results for three composite bleach plant wastewater samples for CDDs/CDFs and chlorinated phenolics, and three grab samples for chloroform and methylene chloride. Such samples shall be obtained at approximately weekly intervals.

(c) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.41 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	25.6	14.1	11.7
TSS	23.3	11.8	9.44

§ 430.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.42 of this subpart for the best practicable control technology currently available (BPT).

§ 430.44 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of- pipe maximum day or annual average mass effluent limitations.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.
TCDF	1,870 ng/kkg	N/A.
Chloroform	232 g/kkg	74.4 g/kkg.
Acetone	1,620 g/kkg	688 g/kkg.
Methyl ethyl ketone	505 g/kkg	167 g/kkg.
Methylene chloride	15.8 g/kkg	4.77 g/kkg.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A.
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
4,5,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	1,500 mg/kkg	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	881 mg/kkg	N/A.
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following limitations shall apply to the end-of-pipe effluent of all dischargers not using a TCF process:

END-OF-PIPE EFFLUENT

Pollutant or pollutant property	BAT effluent limitations			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	3.13	1.39	N/A	1.22

(c) The following limitations shall apply to the end-of-pipe effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[End-of-Pipe Effluent]

Pollutant or pollutant parameter	BAT effluent limitations			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A

§ 430.45 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.
TCDF	1,870 ng/kkg	N/A.
Chloroform	232 g/kkg	74.4 g/kkg.
Acetone	1,620 g/kkg	688 g/kkg.
Methyl ethyl ketone	505 g/kkg	167 g/kkg.
Methylene chloride	15.8 g/kkg	4.77 g/kkg.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A.
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
4,5,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	1,500 mg/kkg	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	881 mg/kkg	N/A
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following standards shall apply to the end-of-pipe effluent of all dischargers:

END-OF-PIPE

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	25.6	14.1	11.7
TSS	23.3	11.8	9.44

(c) The following standards shall apply to the end-of-pipe effluent of all dischargers not using a TCF process:

END-OF-PIPE EFFLUENT

Pollutant or pollutant property	New source performance standards			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Annual average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	3.13	1.39	N/A	1.22

(d) The following standards shall apply to the end-of-pipe effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES

[End-of-Pipe Effluent]

Pollutant or pollutant parameter	New source performance standards			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) or product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A

§ 430.46 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.47 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW maximum day or annual average mass effluent standards.

(a) The following limitations shall apply to the bleach plant effluent of all dischargers not using a TCF process:

BLEACH PLANT EFFLUENT

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Monthly average
TCDD	ND	N/A.
TCDF	1,870 ng/kkg	N/A.
Chloroform	232 g/kkg	74.4 g/kkg.
Acetone	1,620 g/kkg	688 g/kkg.
Methyl ethyl ketone	505 g/kkg	167 g/kkg.
Methylene chloride	15.8 g/kkg	4.77 g/kkg.
trichlorosyringol	218 mg/kkg	N/A.
3,4,5-trichlorocatechol	ND	N/A.
3,4,6-trichlorocatechol	ND	N/A.
3,4,5-trichloroguaiacol	ND	N/A.
3,4,6-trichloroguaiacol	ND	N/A.
4,5,6-trichloroguaiacol	ND	N/A.
2,4,5-trichlorophenol	ND	N/A.
2,4,6-trichlorophenol	1,500 mg/kkg	N/A.
tetrachlorocatechol	ND	N/A.
tetrachloroguaiacol	881 mg/kkg	N/A.
2,3,4,6-tetrachlorophenol	ND	N/A.
pentachlorophenol	ND	N/A.

(b) The following limitations shall apply to the discharge-to-the-POTW effluent of all dischargers not using a TCF process:

DISCHARGE-TO-THE-POTW

Pollutant or pollutant property	Pretreatment standards for new sources			
	Continuous dischargers		Non-continuous dischargers	
	Maximum for any 1 day (kg/kkg)	Monthly average (kg/kkg)	Maximum for any 1 day	Annual average (kg/kkg)
AOX	3.13	1.39	N/A	1.22

(c) The following standards shall apply to the discharge-to-the-POTW effluent of all dischargers using a TCF process:

ALTERNATIVE EFFLUENT LIMITATIONS FOR FACILITIES USING TCF PROCESSES
[Discharge-to-the-POTW]

Pollutant or pollutant parameter	Pretreatment standards for new sources			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A

§ 430.48 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR § 430.03 apply to this subpart.

Subpart E—Papergrade Sulfite Subcategory

§ 430.50 Applicability; description of the papergrade sulfite subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at papergrade sulfite mills. This subcategory includes, but is not limited to, mills, with or without brightening or bleaching, using an acidic cooking liquor of calcium, magnesium, ammonium, or sodium sulfites.

(b) To qualify for alternative limitations at § 430.54, § 430.55, § 430.56, and § 430.57, the owner or operator of the facility must certify, in the NPDES permit application or pretreatment baseline monitoring report, that chlorine or chlorine-containing compounds are not used for pulp bleaching. In addition, the owner or operator of the facility must provide, as a part of the NPDES permit application or pretreatment baseline monitoring report, monitoring results for three composite bleach plant wastewater samples for CDDs/CDFs and chlorinated phenolics, and three grab samples for chloroform and methylene chloride. Such samples shall be obtained at approximately weekly intervals.

(c) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.51 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	9.55	4.83	3.60
TSS	14.8	6.75	4.74

§ 430.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.52 of this subpart for the best practicable control technology currently available (BPT).

§ 430.54 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent limitations.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	BAT effluent limitations			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly Average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	144	71.2	N/A	63.7

§ 430.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the end-of-pipe maximum day or annual average mass effluent standards.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	4.90	2.57	1.98
TSS	7.81	3.22	2.42

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	144	71.2	N/A	63.7

§ 430.56 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for existing sources (PSES), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW maximum day or annual average mass effluent standards.

DISCHARGE-TO-THE-POTW

Pollutant or pollutant parameter	Pretreatment standards for existing sources			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	144	71.2	N/A	63.7

§ 430.57 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS), except that non-continuous dischargers shall not be subject to the monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the POTW maximum day or annual average mass effluent standards.

DISCHARGE-TO-THE-POTW

Pollutant or pollutant parameter	Pretreatment standards for new sources			
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product	
	Maximum for any 1 day	Monthly average	Maximum for any 1 day	Annual average
AOX	0.1	N/A	0.1	N/A
COD	144	71.2	N/A	63.7

§ 430.58 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR § 430.03 apply to this subpart.

Subpart F—Semi-Chemical Subcategory

§ 430.60 Applicability; description of the semi-chemical subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at semi-chemical mills. This subcategory includes, but is not limited to, mills producing bleached or unbleached pulp from wood chips under pressure using a variety of cooking liquors, including but not limited to neutral sulfite semi-chemical (NSSC), sulfur free (sodium carbonate), green liquor, and Permachem®. Mills producing both semi-chemical wood pulp and unbleached kraft wood pulp at the same site using a cross-recovery system are included in the unbleached kraft subcategory.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.61 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.62 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly Average	
BOD_5	2.96	1.43	0.971
TSS	6.71	2.90	1.96

§ 430.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.62 of this subpart for the best practicable control technology currently available (BPT).

§ 430.64 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the end-of-pipe annual average mass effluent limitations.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	BAT effluent limitations		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
COD	40.2	24.6	20.8

§ 430.65 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the end-of-pipe annual average mass effluent standards.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	1.06	0.509	0.409

END-OF-PIPE EFFLUENT—Continued

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
TSS	2.14	0.826	0.548
COD	40.2	24.6	20.8

§ 430.66 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for existing sources (PSES), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW annual average mass effluent standards.

DISCHARGE-TO-THE-POTW

Pollutant or pollutant parameter	Pretreatment standards for existing sources		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
COD	40.2	24.6	20.8

§ 430.67 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the discharge-to-the-POTW annual average mass effluent standards.

DISCHARGE-TO-THE-POTW

Pollutant or pollutant parameter	Pretreatment standards for existing sources		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
COD	40.2	24.6	20.8

§ 430.68 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR 430.03 apply to this subpart.

Subpart G—Mechanical Pulp Subcategory

§ 430.70 Applicability; description of the mechanical pulp subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at mechanical pulping mills. This subcategory includes, but is not limited to, mills producing mechanical pulps, using mechanical defibration by either stone grinders or steel refiners; or thermo-mechanical pulp (TMP) using steam followed by mechanical defibration in refiners; or chemi- mechanical pulp (CMP) using a chemical cooking liquor to partially cook the wood; or a chemi-thermo-mechanical pulp (CTMP) using steam followed by a chemical cooking liquor to partially cook the wood and mechanical defibration in refiners.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.71 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	1.39	0.568	0.380
TSS	5.59	2.02	1.35

§ 430.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Pollutant or pollutant parameter	BCT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	*	*	*
TSS	*	*	*

* EPA is proposing multimedia filtration as the technology basis for BCT limitations for this subcategory. However, EPA does not have sufficient data at this time to propose limitations based upon the use of that technology. See Preamble Sections IX.E.2 and XIII.29.

§ 430.74 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.75 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the annual average mass effluent standards.

END-OF-PIPE

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	0.480	0.208	0.155
TSS	1.62	0.598	0.455

§ 430.76 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.77 Pretreatment standards for new sources (PSNS). [Reserved]

§ 430.78 Best management practices (BMPs). [Reserved]

Subpart H—Non-Wood Chemical Pulp Subcategory

§ 430.80 Applicability; description of the non-wood chemical pulp subcategory

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at non-wood chemical pulp mills. This subcategory includes, but is not limited to, mills producing non-wood pulps from chemical pulping processes such as kraft, sulfite, or soda.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.81 Specialized definitions

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb)		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	3.71	1.97	1.59
TSS	5.44	2.52	2.03

§ 430.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.82 of this subpart for the best practicable control technology currently available (BPT).

§ 430.84 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the annual average mass effluent standards.

END-OF-PIPE

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	3.71	1.97	1.59
TSS	5.44	2.52	2.03

§ 430.86 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.87 Pretreatment standards for new sources (PSNS). [Reserved]

§ 430.88 Best management practices (BMPs).

The definitions and requirements set forth in 40 CFR § 430.03 apply to this subpart.

Subpart I—Secondary Fiber Deink Subcategory

§ 430.90 Applicability; description of the secondary fiber deink subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at secondary fiber deink mills. This subcategory includes, but is not limited to, mills producing deinked pulps from wastepapers using a chemical or solvent process to remove contaminants such as inks, coatings, and pigments.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.91 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	5.29	2.16	1.40
TSS	6.12	2.29	1.50

§ 430.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.92 of this subpart for the best practicable control technology currently available (BPT).

§ 430.94 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.95 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the annual average mass effluent standards.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous discharges; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	3.35	1.21	0.888
TSS	4.58	1.38	0.920

§ 430.96 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.97 Pretreatment standards for new sources (PSNS). [Reserved]

§ 430.98 Best management practices (BMPs). [Reserved]

Subpart J—Secondary Fiber Non-Deink Subcategory

§ 430.100 Applicability; description of the secondary fiber non-deink subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at secondary fiber non-deink mills. This subcategory includes, but is not limited to, mills producing bleached or unbleached pulps from wastepaper without deinking.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.101 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	1.34	0.534	0.363
TSS	2.20	0.781	0.527

§ 430.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.102 of this subpart for the best practicable control technology currently available (BPT).

§ 430.104 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.105 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the annual average mass effluent standards.

(a) Paperboard, Builders' Paper, and Roofing Felt Segment. The following limitations shall apply to the production of paperboard, builders' paper, and roofing felt from wastepaper that has not undergone deinking processes:

No new source within this segment of this subpart shall discharge wastewater to any waters of the United States.

(b) Producers of Other Products from Non-Deink Secondary Fiber. The following limitations shall apply to the production of products other than paperboard, builders' paper, and roofing felt from wastepaper that have not undergone deinking processes:

END-OF-PIPE

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	1.42	0.568	0.386
TSS	2.02	0.719	0.485

§ 430.106 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.107 Pretreatment standards for new sources (PSNS). [Reserved]

§ 430.108 Best management practices (BMPs). [Reserved]

Subpart K—Fine and Lightweight Papers From Purchased Pulp Subcategory

§ 430.110 Applicability; description of the fine and lightweight papers from purchased pulp subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at fine and lightweight papers mills. This subcategory includes, but is not limited to, mills producing papers from purchased virgin pulps or secondary fiber.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.111 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 430.01 shall apply to this subpart. In addition, purchased virgin pulp is defined as pulp purchased from an off-site facility or obtained from an intra-company transfer from another site.

§ 430.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	5.87	2.29	1.59
TSS	4.87	1.62	1.23

§ 430.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.112 of this subpart for the best practicable control technology currently available (BPT).

§ 430.114 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.115 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent standards. Non-continuous dischargers shall be subject to the annual average mass effluent standards.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	2.37	0.922	0.641
TSS	2.16	0.921	0.724

§ 430.116 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.117 Pretreatment standards for new sources (PSNS). [Reserved]

§ 430.118 Best management practices (BMPs). [Reserved]

Subpart L—Tissue, Filter, Non-Woven, and Paperboard From Purchased Pulp Subcategory

§ 430.120 Applicability; description of the tissue, filter, non-woven, and paperboard from purchased pulp subcategory.

(a) The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at tissue, filter, non-woven, and paperboard mills. This subcategory includes, but is not limited to, production from purchased virgin pulps or secondary fiber.

(b) The discharge of process materials excluded from the definition of process wastewater at § 430.01 into publicly owned treatment works or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge is expressly prohibited.

§ 430.121 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 430.01 shall apply to this subpart. In addition, purchased virgin pulp is defined as pulp purchased from an off-site facility or obtained from an intra-company transfer from another site.

§ 430.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations for BOD_5 and TSS. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

Pollutant or pollutant parameter	BPT effluent limitations (end-of-pipe)		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	2.96	0.974	0.629
TSS	5.32	1.73	1.29

§ 430.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). The limitations shall be the same as those specified in § 430.122 of this subpart for the best practicable control technology currently available (BPT).

§ 430.124 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.125 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and monthly average mass effluent limitations. Non-continuous dischargers shall be subject to the annual average mass effluent limitations.

END-OF-PIPE EFFLUENT

Pollutant or pollutant parameter	New source performance standards		
	Continuous dischargers; kg/kkg (or pounds per 1,000 lb) of product		Non-continuous dischargers; annual average; kg/kkg (or pounds per 1,000 lb) of product
	Maximum for any 1 day	Monthly average	
BOD_5	0.982	0.363	0.248
TSS	0.563	0.221	0.175

§ 430.126 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.127 Pretreatment standards for new sources (PSNS). [Reserved]

§ 430.128 Best management practices (BMPs). [Reserved]

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Friday
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Part III

Department of Education

Final Funding Priorities and Applications for Awards for the Rehabilitation Research and Training Centers for Fiscal Year 1994; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Years 1994–1995

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for fiscal years 1994–1995 for Rehabilitation Research and Training Centers.

SUMMARY: The Secretary announces funding priorities for Rehabilitation Research and Training Centers (RRTCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1994–1995. The Secretary takes this action to focus research attention on areas of national need identified through NIDRR's long-range planning process. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: David Esquith, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, room 3424, Washington, DC 20202–2601. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516.

SUPPLEMENTARY INFORMATION: This notice contains six final priorities under the RRTC program. Two of the priorities are in areas related to children and youth with serious emotional disturbances. The remaining priorities are for research related to long-term mental illness, mental health and hearing impairment, pediatric rehabilitation, and medical rehabilitation services.

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) f the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

These final priorities support the National Education Goals. National Education Goal 5 calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Under the regulations for this program (see 34 CFR 352.32), the Secretary may establish research priorities by reserving funds to support particular research activities.

NIDRR is in the process of developing a revised long-range plan. The priorities in this notice are consistent with the long-range planning process.

On August 5, 1993 the Secretary published a notice of proposed priorities in the **Federal Register** at 58 FR 41910. The Department of Education received 74 letters commenting on the proposed priorities. A number of modifications were made to the priorities as a result of those comments. The comments, and the Secretary's responses to them, are discussed in the Appendix to this notice.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**. The publication of these priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Description of the Rehabilitation Research and Training Center Program

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

The statute requires that each applicant for a grant, including an RRTC, demonstrate how its proposed activities address the needs of individuals from minority backgrounds who have disabilities. NIDRR encourages all Centers to involve individuals with disabilities and minorities as recipients in research training, as well as clinical training.

Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes; however, the regulatory selection criteria for the program (34 CFR 352.31) state that the Secretary reviews the extent to which applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The Secretary also reviews the extent to which applicants present a scientific methodology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on the grantee's substantial progress toward meeting the objectives in its approved application.

General

The following requirements apply to all of the RRTCs pursuant to the priorities:

Each RRTC must conduct a multifaceted program of research to develop solutions to problems confronted by individuals with disabilities.

Each RRTC must conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research.

Each Center must disseminate and encourage the use of new rehabilitation knowledge. Each Center must publish all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions.

Each RRTC must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers, including vocational rehabilitation service providers, in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary will fund under this competition only applications that meet one of these absolute priorities:

Priorities 1 and 2—Children and Youth With Serious Emotional Disturbances (CYSED)

Background

The proportion of children and youth under 18 years of age who have serious emotional disturbances has been estimated to be anywhere from three percent to five percent of the population (Koyanagi and Gaines, "All Systems Failure," National Mental Health Association, Arlington, VA, 1993). CYSED may receive services from a number of social service systems including education, child welfare, juvenile justice, mental health, health, and vocational rehabilitation. The extent of the coordination that takes place between service agencies varies widely, and parents are sometimes called upon to serve as case managers. Coordination between systems is particularly important when a child transitions into young adult and adult services.

Many CYSED appear to be "falling through the cracks" as reflected by high hospitalization and arrest rates and low rates of employment, poor school attendance and low participation rates in vocational training (Stoep, "Through the Cracks: Transition to Adulthood for Severely Psychiatrically Impaired Youth" Fourth Annual Research Conference Proceedings, Florida Mental Health Institute, Tampa, 1991). When coordination efforts fail or when appropriate services are unavailable, CYSED may be placed in highly restrictive residential settings, including incarceration. The number of CYSED entering the juvenile justice system and the number of violent offenses they commit are increasing (Loeber, "Antisocial Behavior: More Enduring than Changeable?" Journal of the Academy of Child and Adolescent Psychiatry, 30, 1990). Parents and teachers of CYSED experience very similar feelings of isolation and burn-out (Soler et al., "Fighting Fragmentation: Coordination of Services for Children and Families," Nebraska Law Review, 69, (2), 1990).

The financing of services provided to CYSED can be a costly and complicated matter. Flexible and efficient funding strategies need to be developed and evaluated, particularly within the mental health, social services, and education systems.

The importance of providing support to families and, as appropriate, involving them in the services that are provided to their children has been increasingly recognized by State mental health and education administrators. Many States mandate parent representation on committees that coordinate, plan and evaluate services. More research is needed to determine the impact that family support and involvement has on the effectiveness of the services provided to CYSED. In addition, outreach strategies are needed to identify and meet the needs of parents from minority backgrounds and increase their participation on these committees and other bodies which influence policy and practice. As the mental health system moves toward a family focus, there is a need to identify measures that reflect the values of family-centered services, family participation, family support, and empowerment.

The Center on Mental Health Services within the Substance Abuse and Mental Health Services Administration is presently supporting demonstration projects on the development of statewide family-controlled information and support networks. It is important to understand the impact of these information and support networks.

NIDRR, in collaboration with the Center on Mental Health Services, announces two research priorities related to CYSED.

Priority 1—Improving Service Systems for CYSED

An RRTC on improving service systems for children and youth with serious emotional disturbances shall—

- Utilizing existing databases, identify principal demographic characteristics of children and youth with serious emotional disturbances, including specifically those from minority backgrounds and low-income families, and the services they receive in the education, child welfare, juvenile justice, mental health, health, vocational and rehabilitation systems;
- Identify, develop, and evaluate models of service system coordination for each of the systems listed above, emphasizing the transition from childhood to young adulthood and adult services;
- Identify, develop, and evaluate innovative methods of early identification, educational programming, rehabilitation and treatment for each of the systems listed above;
- Identify and evaluate innovative models of financing and enhanced resource control at the local level for each of the systems listed above;
- Coordinate its activities with related projects supported by the Office of Special Education Programs (OSEP) and analyze the findings of the OSEP demonstration projects that address the provision of comprehensive school-based services to CYSED; and
- Review and analyze current research on a range of educational reform and school restructuring efforts to determine what is known about the implications of these efforts for CYSED.

Priority 2—Services to Families of CYSED

An RRTC on services to families of children and youth with serious emotional disturbances shall—

- Identify, develop, and evaluate models of family participation in the provision of education, child welfare, juvenile justice, mental health, health, vocational, and rehabilitation services;
- Identify and evaluate models and factors that support, strengthen, and empower families;
- Identify and study the effectiveness of community-based residential models and innovative approaches to therapeutic fostercare, group home

treatment and supported, independent living which may serve as alternatives to institutional settings when family based treatment is not an option, and identify factors that indicate a need to consider these alternatives to direct family involvement;

• Evaluate the impact that supports provided to families have on the effectiveness of the services provided to CYSED;

• Compare and evaluate, across States, the effectiveness of State-mandated parent representation on committees that coordinate, plan, and evaluate services;

• Develop and evaluate strategies for outreach to families from minority backgrounds in order to increase their participation on advisory committees and other bodies that influence policies and practices;

• Coordinate its activities with related projects supported by the OSEP; and

• Evaluate the impact of the Center on Mental Health Services demonstration projects on the development of statewide family-controlled information and support networks throughout the United States and the effectiveness of the different strategies employed by these family-controlled organizations to expand and include families and children from culturally diverse backgrounds.

Priority 3—Rehabilitation of Persons With Long-Term Mental Illness

Background

In September, 1992, NIDRR sponsored a Consensus Validation Conference (CVC) on "Strategies to Secure and Maintain Employment for Persons With Long-Term Mental Illness (LTMI)" that produced a number of resource papers. Consumers, providers, family members and researchers submitted papers and provided testimony on current knowledge and recommendations for future research. Areas of concern that emerged as a result of the conference included (1) the importance of a systematic approach to increasing consumer empowerment; (2) the need to address the financial disincentives to employment in various Federal and State systems; (3) the need to explore and improve practices of employers with regard to hiring persons with LTMI; and (4) the importance of the emerging practice of "supported education" which involves the provision of assistance to individuals with disabilities in educational environments that enables them to perform successfully.

The prevalence of mental illness in the United States in 1992 was approximately 45 million individuals, of whom an estimated 4 to 5 million adults are considered "seriously mentally ill" (Rutman, "How Psychiatric Disability Expresses Itself as a Barrier to Employment," CVC Resource Paper, 1992). Severe and persistent mental illness encompasses more than an episodic disorder. It implies significant impairment and disability and, as a result, treatment is often extensive, long-term, and expensive (Goldmen et al., "Defining and Counting the Chronically Mentally Ill," Hospital and Community Psychiatry, 1988).

Consumer-directed vocational, residential, and social-support programs are beginning to appear throughout the country. Typically, in these programs, professionals provide options and consumers set goals, plan services, and assertively ask for help when needed (Mellon, "Member Needs Drive the Program," CVC Public Testimony, 1992). Exploration of the benefits of consumer-directed programs may prove to be valuable.

Persons with LTMI have one of the lowest rates of successful vocational rehabilitation. Many are unable to find or maintain employment for a variety of reasons that include (1) the impact of psychiatric symptoms and the unpredictability of the illness itself; (2) the barriers to employment created by employer discrimination and stigma; (3) the disincentives to work created by financial support systems; and (4) a lack of marketable skills.

Although effective short-term treatment programs now exist to help people with psychiatric disabilities, there are indications that an array of long-term support services such as personal care attendants and job coaches may be necessary in order to maintain life in the community and lifetime involvement in the labor market. Employers often express concerns regarding the unpredictable recurrence of symptoms and difficulties in controlling the behavior of persons with LTMI (Cook et al., "Cultivation and Maintenance of Employer Relationships," CVC Resource Paper, 1992). Studies report that employers interested in hiring persons with disabilities are concerned about the availability of support services that will facilitate the individual's employment (Greenwood et al., "Employer Perspectives on Employer Rehabilitation Partnerships," Journal of Rehabilitation Counseling, 19, (1), 1988).

Application of the concept of "supported" services is proving to be beneficial to persons with long-term mental illness. Developments in the field of psychiatric rehabilitation indicate that supported education programs can improve access to education and retention in education programs and may subsequently increase the employability of participants (Unger, "Access to Educational Programs," CVC Resource Paper, 1992).

NIDRR, in collaboration with the Substance Abuse and Mental Health Services Administration, Center on Mental Health Services, announces a research priority on Long-Term Mental Illness.

Priority

An RRTC on rehabilitation of persons with long-term mental illness shall—

• Identify, compare, and evaluate strategies to increase consumer empowerment in the provision of social and employment training services;

• Identify, develop, and evaluate strategies, including provision of reasonable accommodations to improve employment training, hiring, retention and promotion outcomes for persons with LTMI;

• Identify financial disincentives to employment and develop recommendations to overcome those disincentives;

• Identify, compare, and evaluate models which provide support to employers, as well as persons with LTMI in the community, including supported employment and education models;

• Identify and evaluate strategies to reduce and eliminate stigma in the workplace and training setting attached to persons with long-term mental illness; and

• Investigate the process of recovery from long-term mental illness through the identification of rehabilitation interventions that contribute to the recovery process.

Priority 4—Pediatric Rehabilitation

Background

It is estimated that 10 to 15 percent of the children under 18 years of age have a chronic illness or disability (Pless and Perrin, "Issues Common to a Variety of Illnesses," Issues in the Care of Children with Chronic Illnesses, Hobbs and Perrin (eds.), Jossey-Bass, 1985). Although most have no limitation in activities of daily living, approximately one million are estimated to be severely limited in their ability to participate in activities of childhood, preschool, or school. It is further estimated that 400,000 children, including 100,000 in

institutions, are unable to engage in any major childhood activities (Kohrman, NIDRR Long-Range Plan Hearing Testimony, Chicago, 1991).

There is evidence that the number of infants infected with human immunodeficiency virus (HIV) is growing, and there is an increasing concern about the potentially disabling, long-term effects of crack cocaine use during pregnancy (Office of Technology Assessment, Adolescent Health, Washington, DC, 1991). According to a Public Health Service Report, "Family Centered Comprehensive Care for Children with HIV Infection" (August, 1991) by June 1991 the Centers for Disease Control had received reports of 3,140 children (less than 13 year old) with AIDS. This same report estimates that 1,800–2,000 infants were born infected with HIV in 1989 based on a 30 percent transmission rate from the 5,000–6,000 HIV-infected women who gave birth.

Advances in diagnosis and treatment have dramatically changed mortality rates for children with chronic illnesses, and many survive into adulthood (Gortmaker, "Demography of Chronic Childhood Disease," Issues in the Care of Children with Chronic Illnesses, Hobbs and Perrin (eds.), Jossey-Bass, 1985). As a result of medical, technological, social, and legal advances, treatment of children with chronic illnesses has shifted from being based in hospitals and institutions to communities and family homes. While there appears to be a growing consensus about the ideal of providing home and community-based care for even the sickest children, or those with the most severe disabilities, there is much less consensus about how to do it (Patterson, "Family Resilience to the Challenge of a Child's Disability," Pediatric Annals, September, 1991).

The role of parents in the treatment of children with chronic illness is changing. Quality of care is often dependent on a parent's assertiveness and ability to coordinate the efforts of numerous medical and social service systems (Smith, "Parents: The Critical Team Members," OSERS News In Print, Summer 1992). In addition, the shift to community-based services has placed new demands on the relationship between professionals and parents.

There are a variety of funding mechanisms that support the treatment of children with chronic illness, such as private health insurance, Medicaid, and an array of managed-care programs. Nevertheless, parents of children with chronic illnesses often have difficulty accessing the services their children need. Parents may encounter service delivery systems that are fragmented as a result of inadequate communication and coordination among providers, varying eligibility requirements for services and financial assistance, and insufficient resources (Fox et al., "An Examination of HMO Policies Affecting Children with Special Needs," U.S. Department of Health and Human Services Grant #MCJ–063500, 1990).

The psychosocial impact of chronic illness through, for example, restrictions of activities of daily living and participation in community life have just begun to be explored (Sinnema, "Resilience Among Children with Special Health Care Needs and Among Their Families," Pediatric Annals, September, 1991). More information is needed about what contributes to resiliency and coping in families (including siblings) with a child with a chronic illness (Leonard, "Siblings of Chronically Ill Children: A Question of Vulnerability Versus Resilience," Pediatric Annals, September, 1991).

The use of health services and patterns of expenditures vary markedly by race and ethnicity (Butler et al., "Health Care Expenditures for Children with Chronic Illness," Issues in the Care of Children with Chronic Illnesses, Hobbs and Perrin (eds.), Jossey-Bass, 1985). National survey data revealed a rapid increase in the number of uninsured Black and Hispanic persons between 1977 and 1987 (Fox et al., "An Examination of HMO Policies Affecting Children with Special Needs," U.S. Department of Health and Human Services Grant #MCJ–063500, 1990).

Moreover, many poor minority families are ineligible for Medicaid due to employment or citizenship status (McManus, "Health Insurance Differentials Among Minority Children with Chronic Conditions and the Role of Federal Agencies and Private Foundations in Improving Financial Access," Unpublished Paper, University of Minnesota, RRTC on Children with Chronic Illness, 1992). A critical concern to adolescents and their families is the transition from pediatric to adult health care services. Adolescents and young adults have different needs from children and ideally, transition services should take these needs into account (Court, "Outpatient Based Transition Services for Youth," Pediatrician, June, 1991). More information is needed on the process of transition from pediatric to adult services for young people with chronic illnesses.

For this priority, pediatric rehabilitation is defined as those services necessary to assist children to minimize the effects of disability or serious illness so that they may achieve maximum participation in the activities of childhood, preschool, or school. While acute care medical services and improved clinical interventions are included in this combination of services, the improvement of medical services for children, in isolation, is not the focus of this priority.

Priority

An RRTC in pediatric rehabilitation shall—

- Identify, develop, and disseminate effective models for the provision of pediatric rehabilitation services in the community and at home;
- Identify and disseminate models of family-centered, community-based systems of care for HIV-infected children and their families and identify and evaluate the financing options available to meet the multiple needs of this population;
- Identify, develop, and disseminate effective models of parent involvement in the provision of community and home-based pediatric rehabilitation services;
- Develop and disseminate pre-service and in-service training for pediatric rehabilitation professionals in order to improve their ability to provide community and home-based care treatment;
- Identify and analyze the strengths and limitations of the range of financial mechanisms that support the provision of rehabilitative services to children with chronic illness;
- Identify, develop, and disseminate successful interventions that improve the ability of families to cope;
- Identify, develop, and disseminate successful interventions that improve the psychosocial adjustment of children and adolescents with chronic illness and their families;
- Identify and analyze the pediatric rehabilitation service delivery problems facing chronically ill children from minority backgrounds and their parents and, based on that analysis, recommend strategies to improve pediatric rehabilitation service delivery systems;
- Coordinate its activities with related activities supported by OSEP and agencies within the Department of Health and Human Services that address services to children; and
- Identify and evaluate models of transition from pediatric rehabilitation to adult health and rehabilitation services for children and youth with chronic illnesses.

Priority 5—Mental Health and Hearing Impairment

Background

The National Institute on Deafness and Other Communication Disorders (NIDCD) estimates that at least 28 million Americans have some degree of hearing loss. It also estimates that, of this number, 15 to 20 million persons have a hearing loss, ranging from mild to deaf, that begins in adulthood.

Over the past two decades, there has been a significant increase in the provision of mental health services for persons who are prelingually deaf, i.e., persons who are born deaf. NIDRR has sponsored an RRTC in this area for over ten years, and intends to announce future priorities for research to improve mental health services for persons who are deafened at birth or in early childhood. Little attention, however, has been paid to the mental health needs of persons who are hard-of-hearing or deafened in adulthood, and appropriate mental health services often are not available for these populations. For example, some States offer no specialized mental health services for persons who are hard-of-hearing or who are deafened after childhood, and the quality of mental health services in those States that do provide such services varies widely.

Currently, little is known about the mental health needs, the provision of services, and appropriate interventions for persons who are hard-of-hearing and those who become deaf in adulthood. What is known suggests that persons with hearing loss and those who become deaf in adulthood are likely to have different problems and mental health needs than those who are prelingually deaf. Most persons with hearing loss continue to communicate through speech and speech reading, often depending upon strong amplification to heighten their residual hearing. However, because they frequently experience significant variations in sound discrimination that may leave them unable to understand speech while hearing other levels of sound, their capacity to communicate may be undermined. As a result, they may begin to exhibit dysfunctional behaviors, withdraw from social contact, and feel isolated because they believe they do not fit in with either the hearing or the deaf world.

Unlike persons who are prelingually deaf, persons who become deaf in adulthood are culturally hearing; that is, they have been raised from birth with a language and communication style that depends primarily on voice and sound. When this communication style fails because of deafness, they may have problems with coping and adjustment. They are likely to become angry, anxious, and depressed. They often isolate themselves from others, and their personal and professional relationships may break down. Their capacity to function independently may be undermined, and they may become overly dependent upon others (Interim Report, Research in Adventitious Hearing Impairment, NIDRR Research and Demonstration Project #133A90003, University of California and San Francisco, 1992).

Additional research is needed regarding the availability and appropriateness of mental health services for persons who are hard-of-hearing or late-deafened, and how the provision of mental health services to such persons can be improved. The RRTC funded under this priority shall address the mental health needs of those hard-of-hearing individuals whose hearing loss constitutes a disability as well as those who are deafened in adolescence or adulthood.

Any Center to be funded under this priority must involve individuals who are hard-of-hearing or late-deafened and who have a variety of communication styles in the planning and operations of the Center. Applicants are expected to demonstrate their familiarity with the range of constituent interests and organizations representing these populations.

Priority

An RRTC in mental health and hearing impairment shall—

- Assess and define the major psychological and social adjustment issues confronted by individuals who are hard-of-hearing or who become deafened in adolescence or adulthood;
- Examine the role of alternative communication styles, such as American Sign Language, various forms of manually coded English (e.g., transliteration, speech reading, and oral interpretation), and assistive technology in promoting the psychosocial adjustment of individuals who are hard-of-hearing or late-deafened;
- Examine the psychological effects of late-onset deafness on employment, including early retirement and underemployment, and develop strategies to promote successful employment outcomes;
- Identify, develop, and evaluate interventions that would improve mental health outcomes for persons who are hard-of-hearing or late deafened, including the identification of interventions already developed for the prelingually deaf that may be appropriate for, or can be adapted for, persons who become deafened after they have developed speech communication;
- Assess and analyze, on a State-by-State basis, the availability of mental health services for persons who are hard-of-hearing or late-deafened, including the types of services provided, the kinds of locations where services are provided, the delivery systems that provide the services, the sources of funding for the services, and the qualifications of persons providing the services;
- On the basis of the State-by-State analyses, identify the barriers to providing adequate and appropriate mental health services to these populations, and develop and evaluate strategies to overcome those barriers, including strategies that include a comprehensive continuum of services and strategies that involve peer support mechanisms;
- Identify the needs for improving the skills of mental health practitioners who provide services to persons who are hard-of-hearing or late-deafened, and develop mechanisms, including the provision of in-service and pre-service training, to meet those needs;
- Develop a national clearinghouse on issues related to mental health services for persons who are hard-of-hearing or late-deafened; and
- Include research on persons who are deaf or persons with a hearing impairment from a variety of socioeconomic levels, from diverse racial and ethnic groups, and from rural and inner city areas; involve persons who are deaf and persons with a hearing impairment in the planning, implementation, and evaluation of activities undertaken by the Center; coordinate activities with other Rehabilitation Research and Training Centers dealing with sensory disability issues; and, as appropriate, serve as a resource for States, the Regional Disability Business Technical Assistance Centers, and others.

Priority 6—Medical Rehabilitation Services

Background

The health care system in the United States is undergoing substantial changes, not the least of which are in the mechanisms for delivering and financing comprehensive medical rehabilitation services, primary health care, and long-term health care. Individuals with disabilities, as a group, are major consumers of health care services (Zook and Moore, "High Cost Users of Medical Care," 302, The New England Journal of Medicine, 1980) and

have a substantial stake in the policies that determine the availability of health care—service delivery mechanisms, financing mechanisms, and types of services available. Much of the recent analysis of health care issues has been directed at acute care or communicable diseases. There is a need for more information on the long-term medical and rehabilitation needs of persons with disabilities, particularly those with the most severe disabilities, and how to provide these services.

For this priority, "medical rehabilitation services" are defined as those services provided by physicians, nurses, and allied health professionals to meet the acute care needs of person with newly-acquired disabilities, and those interdisciplinary services necessary to restore function or achieve maximum possible functioning and independence.

Medical rehabilitation service providers are a rapidly growing sector of the health care industry, with the number of rehabilitation hospitals doubling between 1980 and 1987 (England, Ed., "Medical Rehabilitation Services in Health Care Institutions," American Hospital Association, 1989). Reasons for this development include the less restricted rehabilitation bed space allocations allowed by Federal regulations and comparatively favorable reimbursement sources and rates. The demand for medical rehabilitation services is expected to continue to grow in the coming decades because of increased chances of survival after trauma, disease, or birth anomaly; increased prevalence of disability related to the general aging of the population; and more opportunity for individuals with disabilities to acquire secondary disabilities or chronic conditions as a result of increased longevity.

Rehabilitation researchers and clinicians must define the optimal organization and delivery of rehabilitative care, including such parameters as, for example, ideal facility and program sizes (economies of scale) and the appropriate numbers and mix of health care providers needed to serve various disability groups. Existing data sources can be used to help define optimal organizational strategies for inpatient rehabilitation, but few data are available to define optimal strategies for outpatient services. Little is known about how different models for the organization of rehabilitation services affect outcomes and costs. A better understanding is needed of how the type, intensity, and setting of rehabilitation services affect rehabilitation costs and outcomes.

More research also is needed on how the demographic, economic, and medical characteristics of consumers affect their utilization of rehabilitation services and the outcomes that are achieved. The rational targeting of appropriate and responsive rehabilitation services to different population subgroups could increase the cost-effectiveness of rehabilitation services. Health care policy must focus on the means to achieve quality care, leading to a corresponding need to define quality of rehabilitative care. Defining quality care entails developing and validating relevant measures of outcomes, establishing outcome norms, defining practice guidelines, identifying acceptable practice variations, and other quality-of-care criteria.

Personnel shortages and increased medical rehabilitation costs may require the consideration of alternative modes of rehabilitation services delivery, such as the increased use of outpatient services, use of home-based rehabilitation services, use of paraprofessional staff, and less reliance on the traditional team approach during in-patient rehabilitation. Many factors in the larger health care economy have an effect on the costs and outcomes of rehabilitation services that cannot be controlled by rehabilitation providers. These include payment ceilings, length-of-stay limits, minimum services requirements, and other factors over which providers have little control and which may result in less than optimal outcomes.

The purpose of this priority is to generate new knowledge to help resolve important health services issues that have an impact on the delivery of comprehensive acute medical rehabilitation services. Issues that require study in this area include: the costs and efficacy of rehabilitation services and specific rehabilitation modalities; the impact of various innovative payment methods on rehabilitation hospitals and regional service delivery systems; and the development of innovative methods of delivering and financing comprehensive medical rehabilitation services.

NIDRR proposes to support an RRTC to investigate issues surrounding the delivery of medical rehabilitation services. NIDRR expects this Center to coordinate with other RRTCs on trauma services, chronic illness, and serious emotional disorders in children, aging with disabilities, and personal assistance services, as well as with research projects supported by the Agency for Health Care Policy and Research and the National Center for Medical Rehabilitation Research.

The proposed Center is expected to use the emerging approaches of "health services research," a field of scientific investigation that systematically examines the organization, provision, and funding of health care services. The research effort is expected to draw on the skills of such varied disciplines as epidemiology, health care economics, medical ethics and law, the allied health professions, and medical sociology. The research is expected to consider issues concerning access, cost, effectiveness, and quality of health care services.

Priority

An RRTC on medical rehabilitation services shall—

- Identify the service needs of major impairment groups, excluding persons with spinal cord injury, traumatic brain injury, or burns, to serve as a guide for providers, sponsors, and regulators of health services;
- Conduct a definitive survey to develop specific characterizations of existing medical rehabilitation service capacities, including both inpatient and outpatient services currently available and needed;
- Conduct a national longitudinal study of persons served in public and private hospitals to track cohorts of newly impaired persons, including all disabilities except those persons with spinal cord injury, traumatic brain injury, or burns, to ascertain patterns of recovery, optimal patterns of utilization of medical rehabilitative services, service outcomes, and costs;
- Evaluate the continuity of services and identify the types of disabled and socially and economically disadvantaged individuals who fail to receive the services they need, with special attention to the needs of individuals from minority backgrounds; and
- Evaluate the relative costs and outcomes—including consumer satisfaction—of current methods of providing rehabilitation services, including costs and outcomes of post-rehabilitation services for community reintegration, comprehensive medical follow-up, and health maintenance services.

Applicable Program Regulations: 34 CFR parts 350 and 352.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Dated: December 13, 1993.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix—Analysis of Comments and Changes

The Department received seventy-four comments in response to the proposed priorities by the deadline date. Thirty-three additional comments were received after the deadline date and were not considered in this response. Most of the comments were generally supportive of the proposed priority, but many made suggestions for modifications. This Appendix contains an analysis of the comments and the changes in the priority since the publication of the notice of proposed priority. Technical and other minor changes and suggestions the Secretary is not legally authorized to make under applicable statutory authority are not addressed.

Priority 1—Improving Service Systems for CYSED

Comment: One commenter suggested that specific activities addressing transition be added to the activities of the RRTC addressing transition. These specific issues were "identifying what policies, programs and training are needed to ensure continuity of services in transition, what programs currently exist and are working, what new services or programs are necessary and what new fiscal strategies must be developed to implement new services."

Discussion: The Secretary believes that the issues suggested by the commenter are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: Several commenters suggested transferring the evaluation of the statewide family support networks to the priority on Services to Families of CYSED.

Discussion: The Secretary agrees that because the second RRTC concentrates on family-related issues, it would be more appropriate for that RRTC to undertake an evaluation of the statewide family support networks.

Changes: The evaluation of the statewide family support networks has been transferred to the priority on Services to Families of CYSED.

Comment: One commenter suggested broadening the activity regarding models of financing to include reforms in the health care system.

Discussion: The Secretary believes that reforms in the health care system may have important consequences for models of financing for services to CYSED. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: Several commenters made suggestions regarding the demographic analyses included in the priority. One commenter suggested placing more emphasis on the relationship between demographic characteristics and the type and range of services available, services outcomes, and institutionalization. This commenter also suggested that the increased emphasis include the needs of rural areas. A second commenter suggested focusing the demographic analyses on long-term outcomes for CYSED. A third commenter suggested that the RRTC investigate the relationships between age or point of entry and service coordination and outcomes, the relationship between service delivery and a child's racial or ethnic grouping, and the policy, regulatory, and legislative barriers that exist and prevent better service coordination.

Discussion: The Secretary believes that the issue suggested by the commenters are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested investigating the extent to which the point of entry into a service system influences service delivery, coordination, and outcome.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested expanding the RRTC's activities on transition to include identifying policies, services, and training needed to ensure continuity of care in transition, developing new services or modifications in existing services to ensure a smooth transition, and identifying effective fiscal strategies that must be developed to ensure successful transition services.

Discussion: The Secretary believes that the issue suggested by the commenter are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested including an examination of strategies for improving services to children who are involved in delinquency, substance abuse, and violence.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: Several commenters suggested placing a specific emphasis on improving educational and other school-based services for CYSED, including developing and evaluating cost-effective strategies for educating CYSED in the general education setting.

Discussion: The third activity of the priority addresses the issue of educational programming, and the Office of Special Education Programs supports a number of projects that address educational program. The Secretary does not agree that special emphasis should be placed on one area.

Changes: None.

Comment: One commenter suggested that the activity addressing models of financing include an examination of the impact of managed care on mental health services for CYSED.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority, and declines to impose an additional requirement.

Changes: None.

Comment: Several commenters suggested investigating the effectiveness of the integration of community mental health and family services within the context of the school setting.

Discussion: The Secretary believes that studies to determine the effectiveness of comprehensive service systems, including those based in school settings, are important. The Office of Special Education Programs is currently funding a number of demonstration projects addressing comprehensive school-based services for CYSED. With the research being performed under OSEP, the Secretary believes that it would be appropriate to require the RRTC to review the results of these demonstration projects as part of its activities addressing models of service system coordination.

Changes: The priority has been revised to require the RRTC to review the results of the OSEP demonstration projects that address the provision of comprehensive school-based services to CYSED.

Comment: Two commenters suggested placing a greater emphasis on prevention.

Discussion: The Secretary believes that prevention activities are important. However, prevention is outside the scope of this RRTC because the Center is to address the needs of CYSED who are receiving services.

Changes: None.

Comment: Two commenters suggested focusing on case management and managed care.

Discussion: The Secretary believes that the issues suggested by the commenter are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested investigating the early manifestations of emerging integrated service strategies.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to

propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested including an activity on the identification, development, and evaluation of practical strategies for promoting accountability within multi-agency systems of care for CYSED.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: Several commenters suggested adding a new activity to this priority as well as to Priority 2—Services to Families of CYSED—to evaluate the effects of school reform on services for CYSED.

Discussion: The Secretary believes that educational reform and school restructuring efforts may have important implications for CYSED. The Department intends to conduct a competition in 1994 under the Special Education—Research in the Education of Individuals with Disabilities Program to support a Center for Policy Research that will study the impact of education reform on children with disabilities which will include CYSED. However, the Secretary believes it would be appropriate for the RRTC to review and analyze current research on the specific implications for CYSED of educational reform and school restructuring efforts.

Changes: An activity has been added to the priority to review and analyze current research on a range of educational reform and school restructuring efforts to determine what is known about the implications of these efforts for CYSED.

Comment: One commenter suggested including child welfare in the priority as well as in Priority 2—Services to Families of CYSED. This commenter also suggested specifying an age range of birth—21 years for the target population of both priorities on CYSED.

Discussion: The Secretary agrees that the child welfare system is an important component of the systems serving CYSED. The Secretary considers the range of infancy-21 to be the lower and upper limits of the age range for both priorities; however, the Secretary recognizes that the age range may vary for different service systems.

Changes: The child welfare system has been added to the list of service systems that RRTCs in Priority 1 and Priority 2 will investigate.

Comment: One commenter suggested investigating how services which begin in childhood or young adulthood are different from services that begin in adulthood.

Discussion: The Secretary does not believe that an investigation of how services which begin in childhood or young adulthood are different than services that begin in adulthood is as important as the tasks specified in the priority and declines to expand the priority.

Changes: None.

Comment: Several commenters suggested placing more emphasis on issues related to persons with disabilities from minority backgrounds and low-income families.

Discussion: The Secretary agrees that the RRTC can play an important role in improving systems that provide services to CYSED from minority backgrounds and low-income families. The Secretary believes that more knowledge is needed about the service needs of CYSED from minority backgrounds and low-income families.

Changes: The first activity of the priority has been revised to specify that the RRTC include CYSED from minority backgrounds and low-income families in the investigation of demographic characteristics.

Comment: One commenter indicated that the priority appeared to restrict focus and resources on individual systems of services rather than on integrated systems. This commenter suggested that the priority be revised to focus on integrated models of service system operation and innovative methods of integrated early identification for all of the services systems included in the priority.

Discussion: The second activity of the RRTC is devoted exclusively to an investigation of service system coordination. The Secretary does not believe that the priority focuses on individual systems of services rather than on integrated systems.

Changes: None.

Comment: One commenter suggested expanding the priority to address the influence of county, state, and Federal agencies and policies on local systems of care.

Discussion: The Secretary believes that the identification, development, and evaluation of models, including financing models, will necessarily encompass the influence of county, state, and Federal agencies and policies on local systems of care. The Secretary does not believe any expansion of the priority is necessary.

Changes: None.

Comment: One commenter suggested revising the priority to include a requirement for the RRTC to develop, evaluate, and refine methods for interdisciplinary training of personnel who are regularly in contact with CYSED or those who are at risk of developing a serious emotional disturbance.

Discussion: Each RRTC must conduct training for service providers, individuals with disabilities, or families on the knowledge developed by the RRTC.

Changes: None.

Comment: One commenter suggested substituting the phrase "emotional, behavioral, and mental disorder" for "serious emotional disturbance" because the latter phrase is considered demeaning and negative.

Discussion: The Department is currently reviewing comments on a notice published in the **Federal Register** regarding whether "serious emotional disturbance" should continue to be used or another term substituted.

Changes: None.

Priority 2—Services to Families of CYSED

Comment: Several commenters suggested deleting the term "burnout" from the second activity of the priority because it is pejorative.

Discussion: The Secretary agrees that the term may be regarded as pejorative and believes that emphasis should be placed on strengthening and supporting families.

Changes: The activity has been revised to emphasize ways to strengthen and support families.

Comment: One commenter suggested placing more emphasis on training parents and professionals to enable families to be effective in the decision-making processes involving their children.

Discussion: The first activity of the priority addresses models of family participation in various service systems. Each RRTC must conduct a program of training based on its research findings. The Secretary believes that the training the RRTC will conduct that is based on the first activity of the priority will address the training of parents and professionals to enable families to be effective in the decision making processes involving their children.

Changes: None.

Comment: Several commenters suggested eliminating the activity addressing out-of-home placement. These commenters suggested that the RRTC focus on the supports that are needed by families in order to maintain their children in the home, rather than investigate the circumstances when out-of-home placement would be appropriate.

Discussion: The Secretary agrees that the RRTC should focus on the supports that are needed by families in order to maintain their children in the home. However, the Secretary believes that it is important to study the least restrictive alternatives to family-based treatment when out-of-home placement is in the best interests of the child.

Changes: The priority has been revised to address alternatives to institutional settings when family-based treatment is not an option.

Comment: Several commenters suggested including a broad definition of "family." One of these commenters also suggested that the priority "acknowledge the important role of extended family members."

Discussion: The Secretary believes that applicants should have the discretion to define "family" as broadly or as narrowly as they choose. Similarly, applicants should have the discretion to address the role of extended family members to whatever degree the applicant believes is appropriate.

Changes: None.

Comment: Several commenters suggested placing more emphasis on issues related to persons with disabilities from minority backgrounds and low-income families.

Discussion: The priority includes an activity devoted exclusively to families from minority backgrounds. In addition, all applicants for an RRTC are required to demonstrate how the grantee will meet the needs of persons with disabilities from minority backgrounds. The Secretary does not believe any further requirements are necessary.

Changes: None.

Comment: Several commenters suggested requiring the clearinghouse to be operated by a family-run organization.

Discussion: The Center on Mental Health services has informed NIDRR that it plans to support a clearinghouse that will be operated by a family-run organization. The Secretary believes that the clearinghouse contained in the proposed priority would duplicate the work of the CMHS clearinghouse.

Changes: The clearinghouse has been eliminated from the priority.

Priority 3—Rehabilitation of Persons with Long-Term Mental Illness

Comment: Two commenters suggested a number of revisions in the activity addressing strategies to increase consumer empowerment in the provision of social and employment training services. The commenters suggested increasing consumer empowerment in the evaluation of services, including the strategy of employing the consumer as a provider and the concept of job sharing with a mentor as examples of strategies, substituting the phrase "career development services" for "employment training services," including personal assistance services as a strategy for investigation, and clarifying the meaning of the term "consumer empowerment."

Discussion: The Secretary believes that the issues suggested by the commenter are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested studying process of recovery from mental illness as an additional activity.

Discussion: The Secretary agrees that investigations into the recovery process could yield findings that would contribute significantly to the field.

Changes: An activity has been added to the priority to investigate the process of recovery from long-term mental illness through identification of those rehabilitation interventions that contribute to the recovery process.

Comment: Two commenters suggested expanding the concept of disincentives to include not only financial disincentives, but also negative professional and societal attitudes.

Discussion: The Secretary does not believe that it is appropriate to expand the required activity regarding financial disincentives to include negative professional and societal attitudes.

Changes: None.

Comment: One commenter suggested expanding the activity addressing stigma in the work place to address stigma in educational settings.

Discussion: The Secretary agrees that expanding the activity on stigma beyond the work place is desirable. The Secretary prefers to use the term "training settings" in order to include secondary or postsecondary institutions as well as other settings where a person with long-term mental illness may receive vocational skills training.

Changes: The activity on stigma has been expanded to address training settings as well as the work place.

Comment: One commenter suggested including the use of new video/audio conferencing technologies in any activity on training or dissemination.

Discussion: The Secretary believes that applicants should be provided with the discretion to propose various means of undertaking their dissemination activities. The priority would allow use of the technologies mentioned by the commenter.

Changes: None.

Comment: One commenter suggested substituting the phrase "severe and persistent mental illness" for the phrase "long-term mental illness."

Discussion: The Secretary does not believe that the phrase proposed by the commenter advances the terminology. The phrase "long-term mental illness" is regarded as a term of art in the field.

Changes: None.

Comment: One commenter suggested referencing supported employment, including transitional employment, and career development, in the background to the priority. The commenter also suggested acknowledging the critical role of high school and higher education in preparing students for employment in the high-tech marketplace.

Discussion: Employment is a major topic of discussion in the background to the priority. The Secretary does not believe it is necessary to reference supported employment, transitional employment, and career development in the background and points out that supported employment is an element in the fourth activity of the priority. The Secretary agrees that high school and higher education play pivotal roles in preparing individuals for employment in the high-tech marketplace, but does not believe it is necessary to point it out in the background statement.

Changes: None.

Priority 4—Pediatric Rehabilitation

Comment: One commenter suggested several specific studies for the RRTC to undertake. These studies addressed technology dependent children, family "burnout," family resiliency, support services, the provision of rehabilitation services to victims of child abuse, "supportive education," psychosocial morbidity, discordance in the parents' view of the impairment of their child, and effective models for support and empowerment of caregivers to obtain desired services for their children through innovative payment strategies.

Discussion: The Secretary believes that the issues suggested by the commenter are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter urged the Secretary to clarify that pediatric physical therapists are to be included in the term "pediatric rehabilitation professionals."

Discussion: The Secretary believes that it is commonly understood in the field of pediatric rehabilitation that pediatric physical therapists are considered part of the population of pediatric rehabilitation professionals. The Secretary does not believe any clarification is necessary.

Changes: None.

Comment: One commenter suggested determining the extent to which children in the child welfare system are in rehabilitation hospitals and identifying models to enable children with disabling conditions who have been in rehabilitation hospitals to return to their families or foster families with necessary supports and aftercare.

Discussion: The Secretary does not believe that the suggestion is within the scope of the priority. The Secretary believes that expanding RRTC to include the suggested activity is beyond the resources that will be made available to the RRTC.

Changes: None.

Comment: Several commenters suggested deleting the activity addressing HIV-infected children because they believe it would be more appropriate for other agencies to conduct research in this area.

Discussion: The Secretary believes that it is important for the RRTC to address the needs of these children.

Changes: None.

Comment: Several commenters suggested expanding the requirement to coordinate activities with the OSEP to include agencies within the Department of Health and Human Services (DHHS) that address services to children.

Discussion: The Secretary agrees that the RRTC should coordinate its activities with agencies within DHHS that address services to children.

Changes: The coordination requirement has been expanded to include agencies within DHHS that address services to children.

Comment: One commenter suggested addressing strategies that will enable children with chronic illnesses to have their special health care needs met in the general education classroom.

Discussion: The Secretary does not believe that the suggestion is within the scope of the priority. The Secretary believes that expanding RRTC to include the suggested activity is beyond the resources that will be made available to the RRTC.

Changes: None.

Comment: One commenter suggested including activities to teach youngsters to make informed choices and become self-advocates.

Discussion: The Secretary does not believe that the suggestion is within the scope of the priority. The Secretary believes that expanding RRTC to include the suggested activity is beyond the resources that will be made available to the RRTC.

Changes: None.

Priority 5—Mental Health and Hearing Impairment

Comment: Several commenters suggested establishing an RRTC with a broader focus on the family, occupational, and communicative needs of late-deafened and hard-of-hearing people. Some commenters stated that the dual focus of this RRTC on prelingually deaf

individuals as hard-of-hearing and late-deafened individuals would be scientifically and operationally unsound.

Discussion: The Secretary agrees that hard-of-hearing and late-deafened individuals constitute an underserved population with significant problems. In the past, NIDRR has supported an RRTC on Mental Health and Deafness, and continues to support two other RRTCs conducting research on problems of deafness. NIDRR convened a participatory planning meeting to discuss the needs for a priority in the area of mental health and hearing impairment and the planning group placed major emphasis on the needs of the hard-of-hearing and late-deafened populations. In its proposed priority, the Department suggested a dual focus in the proposed Center. However, the weight of public comment has convinced the Secretary that this dual focus is inadvisable. Therefore, because the hard-of-hearing and late-deafened populations, who comprise the majority of the hearing-impaired population, have not been addressed in past NIDRR priorities, the Secretary has determined that this RRTC should focus on the needs of hard-of-hearing and late-deafened individuals. NIDRR will continue to investigate the need for additional research priorities to address the mental health issues of that population that is prelingually and culturally deaf.

Changes: The priority has been changed throughout to address the hard-of-hearing and late-deafened populations.

Comment: One commenter suggested that the priority include a needs assessment of the late-deafened population in order to evaluate mental health needs.

Discussion: The Secretary believes that the issue suggested by the commenters is important and should be addressed within the scope of the priority, since there is no definitive body of knowledge on this subject.

Changes: The first activity required under the priority has been changed to "Assess and define the major psychological and social adjustment issues confronted by individuals who are hard-of-hearing or who become deafened in adolescence or adulthood".

Comment: One commenter suggested emphasizing the needs of individuals who are diagnosed with a mental illness and who are also deaf or hard-of-hearing.

Discussion: The RRTC is intended to address the needs of persons who are hard-of-hearing or late-deafened and who have mental health needs. This would include persons who have been diagnosed with a mental illness, but would not be limited to that population. The Secretary believes the target population should be defined by functional parameters rather than formal diagnoses.

Changes: None.

Comment: Several commenters suggested eliminating any restriction on the age of onset of hearing loss or the degree of hearing loss in the priority. Many of these commenters expressed a concern about the special emphasis placed on those with severe hearing loss, contending that persons whose hearing loss is less than severe have equally important needs.

Discussion: The Secretary agrees that the issues of degree of hearing loss and the age of onset need to be clarified and revised in the priority. As indicated above, the Secretary believes that the RRTC should address the needs of individuals who are hard-of-hearing or late-deafened and have problems related to mental health and adjustment. The Secretary believes that the RRTC should address the needs of youth and adults because there is less current research focused on these age ranges. The Secretary is concerned with augmenting the available knowledge about the adjustment problems of individuals who experience disability due to being hard-of-hearing or late-deafened, and about optimal services to meet the needs of these populations.

Changes: The priority has been revised to specify the age range applicable to the RRTC and to clarify that the RRTC addresses the needs of individuals who hard-of-hearing or have late-onset deafness.

Comment: Several commenters suggested placing an emphasis on evaluating and analyzing the various communication methods of persons with hearing loss and developing pre-service and in-service training for service providers on these methods.

Discussion: The Secretary believes that the issues suggested by the commenters are important and has added analysis of communication styles to the priority.

Changes: A new activity has been added to the priority to "Examine the role of alternative communication styles, such as American Sign Language, various forms of manually coded English (e.g., transliteration, speech reading, and oral interpretation), and assistive technology in promoting the psychosocial adjustment of individuals who are hard-of-hearing or late-deafened."

Comment: One commenter suggested investigating whether entering "Deaf culture" and learning American Sign Language resulted in a more positive mental health adjustment outcome for individuals who become deaf after acquiring speech and language.

Discussion: The Secretary believes that the issue suggested by the commenters is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested that the priority improperly implied that the RRTC should rely only on mental health programs and professionals in the field of deafness.

Discussion: The Secretary disagrees with the commenter's reading of the priority. The Secretary believes that in order to address the wide range of hearing impairment that is required, the RRTC will have to draw from an equally wide range of mental health program experts.

Changes: None.

Comment: Several commenters suggested giving the representatives of consumers and their families the opportunity to provide input into the conceptualization, design, implementation, and evaluation of research projects, service development, and service delivery.

Discussion: The Secretary believes that the sixth activity of the priority requires the RRTC to give the representatives of consumers and their families the opportunity to provide input into the conceptualization, design, implementation, and evaluation of research projects, service development, and service delivery. The Secretary has emphasized this in the background statement.

Changes: The background statement has been supplemented to include the following statement: "Any Center to be funded under this priority must involve individuals who are hard-of-hearing or late- deafened and who have a variety of communication styles in the planning and operations of the Center. Applicants are expected to demonstrate their familiarity with the range of constituent interests and organizations representing these populations".

Comment: Several commenters suggested expanding the RRTC to address the mental health needs of individuals with both visual and hearing impairments.

Discussion: The Secretary believes that expanding the RRTC to cover individuals with both visual and hearing impairments should be left to discretion of the applicant.

Changes: None.

Comment: Several commenters expressed a concern that the needs of individuals who are prelingually deaf would be overlooked by the RRTC. Similarly, several other commenters expressed a concern that the needs of individuals who become deaf after acquiring speech and language would be overlooked by the RRTC. Both groups of commenters appeared convinced that no one Center could serve adequately the needs of both populations.

Discussion: In response to these concerns, the Secretary has narrowed the focus of this Center to the hard-of-hearing and late-deafened populations. The Secretary continues to consider the needs for an additional priority to focus on mental problems of persons who are prelingually and culturally deaf.

Changes: The focus of the entire priority has been changed.

Comment: One commenter suggested including family therapy within the meaning of mental health services.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested investigating the environmental causes of late onset hearing impairment.

Discussion: The Secretary believes that expanding the required activity to investigate the environmental causes of late onset hearing impairment is beyond the scope of the RRTC.

Changes: None.

Priority 6—Medical Rehabilitation Services

Comment: One commenter, discussing the shortage of physical therapists, cautioned

that the requirement regarding "alternative modes of rehabilitation service delivery" should not relieve the RRTC of its obligation to provide training to appropriate personnel.

Discussion: The Secretary does not agree that the activity regarding alternative modes of rehabilitation service delivery implies that the RRTC's training obligations are lessened.

Changes: None.

Comment: One commenter requested listing orthotic and prosthetic practitioners in the definition of "medical rehabilitation services." This commenter also requested that amputees be listed in the major impairment groups.

Discussion: The Secretary believes that it is commonly understood in the field of medical rehabilitation that orthotic and prosthetic practitioners provide medical rehabilitation services and that amputees are included in "major impairment groups." The Secretary does not believe any clarification is necessary.

Changes: None.

Comment: Two commenters recommended specifying that the target population include persons with "physical and acquired disabilities" and exclude persons with mental illnesses.

Discussion: The Secretary believes that the field will be best served by providing applicants with the discretion to define the target population.

Changes: None.

Comment: Two commenters suggested addressing the setting in which medical rehabilitation services are provided, specifically, hospitals, skilled nursing facilities, home and community-based settings.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of any number of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: Two commenters suggested comparing the costs and outcomes of different strategies, settings, or programs of delivering or managing medical rehabilitation and disability-related services.

Discussion: The Secretary believes that the issue suggested by the commenter is important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested reducing the emphasis on identifying service needs.

Discussion: The Secretary believes that it is important to update our knowledge of the medical rehabilitation service needs of major impairment groups.

Changes: None.

Comment: Two commenters suggested developing quantitative evaluation and management systems that are practical and address quality improvement and outcomes.

Discussion: The Secretary believes that the issues suggested by the commenter are important and could be addressed within the scope of the priority. However, the Secretary intends that applicants have the discretion to propose the investigation of issues that fall within the scope of the priority and declines to impose an additional requirement.

Changes: None.

Comment: One commenter suggested that rather than exclude persons with spinal cord injury, traumatic brain injury, and burns in determining medical rehabilitation service needs and conducting the national longitudinal study, the RRTC should include these disability categories and use data or findings that may already be available from existing NIDRR-sponsored research.

Discussion: The Secretary prefers to exclude these disability categories because of uncertainties regarding the availability and compatibility of the data.

Changes: None.

Comment: One commenter suggested revising the longitudinal study to address ten to fourteen major disability groups instead of including all disability groups.

Discussion: The Secretary believes it is in the best interest of the field to provide applicants with the discretion to define the major disability groups.

Changes: None.

Comment: One commenter suggested giving applicants the discretion to propose the activities that would include child-age populations.

Discussion: The Secretary agrees and points out that applicants do have the discretion to propose the activities that would include child-age populations because no age range is specified in the priority.

Changes: None.

General Comments

Comment: One commenter suggested establishing an RRTC in the area of epilepsy.

Discussion: The Secretary agrees to consider this proposal in future planning.

Changes: None.

Comment: One commenter suggested clarifying that all strategies or models investigated by the RRTCs should be easily replicable in the field. This commenter also suggested undertaking broadly-based dissemination activities of relevant and useful information.

Discussion: The Secretary agrees with the commenter. There are general requirements that are placed on all RRTCs. The Secretary believes these requirements will generate practical, replicable strategies and models as well as appropriate dissemination activities. The Secretary does not believe that further requirements are necessary.

Changes: None.

Comment: One commenter stated that RRTCs should relate exclusively to supporting the public vocational rehabilitation program. Specifically, this commenter suggested revising the priorities on CYSED to address only those youth who are entering the public vocational rehabilitation program. This commenter also suggested that the priority on Pediatric Rehabilitation was "inappropriate" and should be established by the National Institutes of Health and the "Public Health System."

Discussion: The Secretary points out that NIDRR supports a large number of RRTCs that are intended to address the public vocational rehabilitation program. In regard specifically to the commenter's suggestion on the Pediatric Rehabilitation RRTC, the Secretary points out this RRTC is being re-established based on a Congressional mandate.

Changes: None.

[FR Doc. 93-30817 Filed 12-16-93; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133B]

Office of Special Education and Rehabilitative Services National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for Certain New Awards Under the Rehabilitation Research and Training Centers (RRTC) for Fiscal Year (FY) 1994

NOTE TO APPLICANTS: This notice is a complete application package. The notice contains information, application forms, and instructions needed to apply for a grant under this competition. The final priorities for the Rehabilitation Research and Training Centers (RRTC) program are published in this issue of the **Federal Register.** This consolidated application package includes the closing date, estimated funding, and application forms necessary to apply for an award under this program's competition. Potential applicants should consult the statement of the final priority published in this issue to ascertain the substantive requirements for their applications.

The estimated funding level in this notice does not bind the Department of Education to make awards or to any specific number of awards or funding levels.

APPLICATION NOTICE FOR FISCAL YEAR 1994, REHABILITATION RESEARCH AND TRAINING CENTERS CFDA NO.84.133B

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
Improving service systems for CYSED	March 4, 1994	1	$650,000	60
Services to families of CYSED	March 4, 1994	1	650,000	60
Rehabilitation of persons with long-term mental illness	March 4, 1994	1	550,000	60
Pediatric rehabilitation	March 4, 1994	1	600,000	60
Mental health and hearing impairment	March 4, 1994	1	400,000	36
Medical rehabilitation services	March 4, 1994	1	500,000	36

Note: The Rehabilitation Act Amendments of 1992 require that each applicant for a project under this competition must demonstrate in its application how it will address the needs of individuals from minority backgrounds who have disabilities. Before your application can be reviewed, it must include this description. Applications for which this information is not received will not be reviewed.

Successful applicants that provide services to individuals with disabilities will be required to advise these individuals, or as appropriate, the parents, family guardians, advocates, or authorized representatives of these individuals, of the availability and purposes of the State Client Assistance Program (CAP), including information on means of seeking assistance under such programs. A list of State CAPs will be provided to successful applicants when they are notified of their award.

This notice of final priorities supports the National Education Goals. National Education Goal 5 calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. This notice would address Goal 5 by helping individuals with disabilities to develop the skills necessary to live and work successfully in the world as it is today.

If you need further information about these requirements, please contact David Esquith at (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR parts 350 and 352; and (c) the notice of final priorities published elsewhere in this issue of the **Federal Register.**

Purpose of Program: Rehabilitation Research and Training Centers conduct coordinated and advanced programs of rehabilitation research, provide training—including undergraduate, graduate, and in-service training—to research and other rehabilitation personnel, and assist individuals to more effectively provide rehabilitation services.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications under this program.

(a) *Relevance and importance of the research program* (20 points). The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area, and is likely to become a nationally recognized source of scientific knowledge; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objective of the Center, and will build upon and complement each other to enhance the likelihood of solving significant rehabilitation problems.

(b) *Quality of the research design* (35 points). The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive research program for the entire project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with current research in the field;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected; and

(3) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning future research, including generation of new hypotheses where applicable.

(c) *Quality of the training and dissemination program* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for training and dissemination provides evidence that research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed training materials and methods are appropriate; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and the training materials and dissemination packages will be developed in alternate media that are usable by people with various types of disabilities.

(2) The proposed plan for training and dissemination provides for—

(i) Advanced training in rehabilitation research;

(ii) Training rehabilitation service personnel and other appropriate individuals to improve practitioner skills based on new knowledge derived from research;

(iii) Training packages that make research results available to service providers, researchers, educators, disabled individuals, parents, and others;

(iv) Technical assistance or consultation that is responsive to the concerns of service providers and consumers; and

(v) Dissemination of research findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunications.

(d) *Quality of the organization and management* (20 points). The Secretary

reviews each application to determine the degree to which—

(1) The staffing plan for the Center provides evidence that the project director, research director, training director, principal investigators, and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of staff time is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions;

(2) The budgets for the Center and for each component project are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions; and

(8) The plan for evaluation of the Center provides for an annual assessment of the outcomes of the research, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

Eligible Applicants: Institutions of higher education and public or private agencies and organizations collaborating with institutions of higher education, including Indian tribes and tribal organizations, are eligible to apply for awards under this program.

Program Authority: 29 U.S.C. 762.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# (Applicant must insert number and letter)), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# (Applicant must insert number and letter)), room #3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free WorkPlace Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form ED–80–0014) and instructions.

(Note: ED Form ED–80–0014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A)).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Dianne Villines, U.S. Department of Education, room 3417 Switzer Building, 400 Maryland Avenue SW., Washington, DC 20202–2704. Telephone: (202) 205–9141. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: December 13, 1993.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section.

FREQUENT QUESTIONS

1. CAN I GET AN EXTENSION OF THE DUE DATE?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. WHAT SHOULD BE INCLUDED IN THE APPLICATION?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is not useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. WHAT FORMAT SHOULD BE USED FOR THE APPLICATION?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. MAY I SUBMIT APPLICATIONS TO MORE THAN ONE NIDRR PROGRAM COMPETITION OR MORE THAN ONE APPLICATION TO A PROGRAM?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. WHAT IS THE ALLOWABLE INDIRECT COST RATE?

The limits on indirect costs vary according to the program and the type of application.

Applicants in the FIR, AND Innovation grants programs should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate.

6. CAN PROFITMAKING BUSINESSES APPLY FOR GRANTS?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. CAN INDIVIDUALS APPLY FOR GRANTS?

No. Only organizations are eligible to apply for *grants* under NIDRR programs.

8. CAN NIDRR STAFF ADVISE ME WHETHER MY PROJECT IS OF INTEREST TO NIDRR OR LIKELY TO BE FUNDED?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. HOW DO I ASSURE THAT MY APPLICATION WILL BE REFERRED TO THE MOST APPROPRIATE PANEL FOR REVIEW?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including the title of the priority to which they are responding.

10. HOW SOON AFTER SUBMITTING MY APPLICATION CAN I FIND OUT IF IT WILL BE FUNDED?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following. September 30.

11. CAN I CALL NIDRR TO FIND OUT IF MY APPLICATION IS BEING FUNDED?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. IF MY APPLICATION IS SUCCESSFUL, CAN I ASSUME I WILL GET THE REQUESTED BUDGET AMOUNT IN SUBSEQUENT YEARS?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justification must be submitted for each year of the project and there will be negotiations on the budget each year.

13. WILL ALL APPROVED APPLICATIONS BE FUNDED?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, DC 20503.

Rehabilitation Research and Training Centers (CFDA No. 84.133B) 34 CFR parts 350 and 352.

BILLING CODE 4000–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 —

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*
Congressional District, *if known:*

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:
CFDA Number, *if applicable:* _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply):*
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply):*
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OM
0348-0046

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Standard Form - LLL-A

[FR Doc. 93-30818 Filed 12-16-93; 8:45 am]
BILLING CODE 4000-01-C

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

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