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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 94–NM–138–AD; Amendment 39–9027; AD 94–19–05]**

### Airworthiness Directives; British Aerospace Model BAC 1–11–200 and –400 Series Airplanes

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAC 1–11–200 and –400 series airplanes. This action requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to limit reversion of the flight controls to manual (unpowered) operation. This action also provides optional terminating action for the AFM limitation. This amendment is prompted by reports of cracking of certain brackets and levers in the primary flight control system due to residual stresses, mechanical loading, and material properties changes associated with aging. The actions specified in this AD are intended to prevent loss of integrity of the primary flight control system due to structural failure of the brackets or levers.

**DATES:** Effective October 6, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 6, 1994.

Comments for inclusion in the Rules Docket must be received on or before November 21, 1994.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–138–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

**FOR FURTHER INFORMATION CONTACT:** 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:** The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAC 1–11–200 and –400 series airplanes. The CAA advises that it has received reports of cracking of certain brackets and levers in the primary flight control system. These brackets and levers were manufactured from L53 aluminum alloy casting material. Investigation has revealed that the cracking may be attributed to a combination of residual stresses, mechanical loading, and material properties changes associated with aging. Cracking of these brackets and levers could lead to structural failure of these components. This condition, if not corrected, could result in loss of integrity of the primary flight control system.

British Aerospace has issued Alert Service Bulletin 27–A–PM6025, Issue 1, dated March 23, 1994, which specifies a new operating restriction for reversion of the flight controls to manual (unpowered) operation. Limiting /such reversion to emergency situations only will greatly reduce the probability that flight control system brackets and levers (manufactured from L53 aluminum alloy casting material) will experience higher stresses, and thereby higher probability of structural failure associated with manual operation of the flight control systems.

The alert service bulletin also describes procedures for repetitive detailed visual inspections to detect cracking of the rudder pedal pivot brackets, elevator pivot levers, and aileron pulley brackets (manufactured from L53 aluminum alloy casting material) in the primary flight control system, replacement of any cracked bracket or lever with a serviceable part, and application of water displacing fluid to the brackets and levers. The CAA classified this alert service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent loss of the integrity of the primary flight control system. This AD requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to limit reversion of the flight controls to manual (unpowered) operation. This AD also provides for an optional terminating action for the AFM limitation, consisting of inspections, replacement (as necessary), and application of water displacing fluid, as specified in the alert service bulletin described previously.

The FAA is considering further rulemaking to require accomplishment of the currently optional terminating action. However, the proposed compliance time for those actions is sufficiently long so that notice and time for public comment would not be impracticable.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good

cause exists for making this amendment effective in less than 30 days.

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–138–AD." The postcard will be date stamped and returned to the commenter.

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 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:

**94–19–05 British Aerospace Airbus Limited (formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group):** Amendment 39–9027. Docket 94–NM–138–AD.

*Applicability:* Model BAC 1–11–200 and –400 series airplanes having rudder pedal pivot brackets, elevator pivot levers, or aileron pulley brackets (manufactured from L53 aluminum alloy casting material) identified in British Aerospace Alert Service Bulletin 27–A–PM6025, Issue 1, dated March 23, 1994; certificated in any category.

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

To prevent loss of the integrity of the primary flight control system, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following limitation; and thereafter operate the airplane in accordance with that limitation. This may be accomplished by inserting a copy of this AD in the AFM.

"The flight controls shall not be reverted to manual (unpowered) operation unless an emergency situation exists during which the flight crew must revert the flight controls to manual operation in order to maintain control of the airplane."

(b) Accomplishment of a detailed visual inspection to detect cracking of the elevator pivot levers, in accordance with paragraph 2.2 of the Accomplishment Instructions of British Aerospace Alert Service Bulletin 27–A–PM6025, Issue 1, dated March 23, 1994; constitutes terminating action for the AFM limitation required by paragraph (a) of this AD, and that limitation may be removed from the AFM. Repeat the inspection thereafter at intervals not to exceed 18 months. If any elevator pivot lever is cracked, prior to further flight, replace it with a serviceable part and apply water displacing fluid to the levers, in accordance with the alert service bulletin.

(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, 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.

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

(e) The inspection and corrective actions shall be done in accordance with British Aerospace Alert Service Bulletin 27–A–PM6025, Issue 1, dated March 23, 1994. 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 British Aerospace, 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.

(f) This amendment becomes effective on October 6, 1994.

Issued in Renton, Washington, on September 14, 1994.

**Donald L. Riggin,**

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

[FR Doc. 94–23220 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–U

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**14 CFR Part 39**

**[Docket No. 94–NM–38–AD; Amendment 39–9025; AD 94–19–03]**

## Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD),

applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires replacement of the autopilot disconnect switches with modified units. This amendment is prompted by several incidents in which the flight crew did not depress both halves of the autopilot disconnect switch during the LAND 2 or LAND 3 approach and, as a result, one autopilot remained engaged. This condition resulted in unanticipated movements of the stabilizer trim and higher than anticipated control forces of the flight controls. The actions specified by this AD are intended to prevent the flight crew from inadvertently disconnecting only one autopilot when both autopilots are engaged, which could result in unanticipated control surface movements.

**DATES:** Effective October 21, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 21, 1994.

**ADDRESSES:** The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. 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:** Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on May 11, 1994 (59 FR 24383). That action proposed to require replacement of the autopilot disconnect switches with modified units.

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

Both commenters support the proposed rule.

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 19 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 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 $2,500 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $55,860, or $2,940 per airplane.

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 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:

**94–19–03 Fokker:** Amendment 39–9025. Docket 94–NM–38–AD.

*Applicability:* Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11286 inclusive, 11289 through 11293 inclusive, 11295 through 11297 inclusive, 11300, 11303, 11306, 11308, 11310, 11312, and 11313; certificated in any category.

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

To prevent the flight crew from inadvertently disconnecting only one autopilot when both autopilots are engaged, which could result in unanticipated control surface movements, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace the autopilot disconnect switches with modified units, in accordance with Fokker Service Bulletin SBF100–22–020, dated September 25, 1990.

(b) As of 6 months after the effective date of this AD, no person shall install an autopilot disconnect switch, part number A47007–401 or A47007–403, on any airplane.

(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, 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.

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

(e) The replacement shall be done in accordance with Fokker Service Bulletin SBF100–22–020, dated September 25, 1990. 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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. 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.

(f) This amendment becomes effective on October 21, 1994.

Issued in Renton, Washington, on September 14, 1994.

**Donald L. Riggin,**

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

[FR Doc. 94–23221 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–U

## 14 CFR Part 39

**[Docket No. 94–NM–35–AD; Amendment 39–9026; AD 94–19–04]**

## Airworthiness Directives; Raytheon Corporate Jets Model BAe 125–1000A Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Corporate Jets Model BAe 125–1000A series airplanes, that requires modification of the control circuit wiring for the engine thrust reversers and of the wiring for annunciation of rudder bias status. This amendment is prompted by a report that a single dormant electrical fault in the control circuit of the thrust reversers could cause a thrust reverser to deploy if the pilot selects reverse thrust during the approach phase of flight; and by reports that if an asymmetric thrust reverser condition occurs, the correct rudder bias may not be annunciated before the flight crew applies high reverse thrust. The actions specified by this AD are intended to prevent adversely affected controllability of the airplane.

**DATES:** Effective October 21, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 21, 1994.

**ADDRESSES:** The service information referenced in this AD may be obtained from Raytheon Corporate Jets Inc., 3 Bishops Square, St. Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom. 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 (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Corporate Jets Model BAe 125–1000A series airplanes was published in the **Federal Register** on April 29, 1994 (59 FR 22141). That action proposed to require modification of the control circuit wiring for the engine thrust reversers and of the wiring for annunciation of rudder bias status.

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.

The FAA estimates that 19 airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 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 $1,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $81,700, or $4,300 per airplane.

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 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:

**94–19–04 Raytheon Corporate Jets, Inc.:** Amendment 39–9026. Docket 94–NM–35–AD.

Applicability: Model BAe 125–1000A series airplanes; serial numbers 258151, 258159, and 259003 through 259044 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight deployment of a thrust reverser, which could adversely affect the controllability of the airplane, accomplish the following:

(a) Within 8 months after the effective date of this AD, modify the control circuit wiring for the left and right engine thrust reversers and rudder bias status annunciation, in accordance with Raytheon Corporate Jets Service Bulletin SB.78–9–3662B, dated January 7, 1994.

(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, 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.

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

(d) The modification shall be done in accordance with Raytheon Corporate Jets Service Bulletin SB.78–9–3662B, dated January 7, 1994. 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 Raytheon Corporate Jets Inc., 3 Bishops Square, St. Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom. 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.

(e) This amendment becomes effective on October 21, 1994.

Issued in Renton, Washington, on September 14, 1994.

**Donald L. Riggin,**

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

[FR Doc. 94–23223 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–U

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**14 CFR Part 39**

**[Docket No. 94–NM–154–AD; Amendment 39–9028; AD 94–19–06]**

## Airworthiness Directives; Puritan Bennett Sweep-On Model 2000 Crew Masks

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Puritan Bennett Sweep-On Model 2000 crew masks installed on various transport and commuter category airplanes. This action requires modification of certain crew oxygen masks. This amendment is prompted by reports of difficulty in exhaling into certain crew oxygen masks due to misalignment of the demand diaphragm. The actions specified in this AD are intended to prevent the flight crew from experiencing difficulty in exhaling into the affected crew oxygen masks in the event oxygen masks are required for the crew, such as during depressurization of the airplane.

**DATES:** Effective October 6, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 6, 1994.

Comments for inclusion in the Rules Docket must be received on or before November 21, 1994.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–154–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Puritan Bennett Aero Systems Company, 108000 Pflumm Road, Lenexa, Kansas 66215. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 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:** Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5336; fax (310) 988–5310.

**SUPPLEMENTARY INFORMATION:** Recently, the flight crews from various transport and commuter category airplanes reported that they experienced difficulty in exhaling into certain Puritan Bennett Sweep-On Model 2000 crew oxygen masks. Investigation revealed that the demand diaphragm on these crew oxygen masks were misaligned, which may have resulted in the seizure of the exhalation valve. This condition, if not corrected, could result in the flight crew experiencing difficulty in exhaling into the affected crew oxygen masks in the event oxygen masks are required for the crew, such as during depressurization of the airplane.

The FAA has reviewed and approved Puritan Bennett Service Bulletin 174250–35–1, dated August 1994, which describes procedures for modification of certain crew oxygen masks. This modification entails aligning the demand diaphragm in the vertical position, which would prevent the seizure of the exhalation valve.

Since an unsafe condition has been identified that is likely to exist or develop on other Puritan Bennett Sweep-On Model 2000 crew oxygen masks that are installed on various transport and commuter category airplanes, this AD is being issued to prevent the flight crew from experiencing difficulty in exhaling into the affected crew oxygen masks. This AD requires modification of certain crew oxygen masks. The actions are required to be accomplished in accordance with the service bulletin described previously.

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

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–154–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined

further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 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:

**94–19–06 Puritan Bennett Aero Systems:** Amendment 39–9028. Docket 94–NM–154–AD.

Applicability: Sweep-On Model 2000 crew oxygen masks, as listed in Puritan Bennett Service Bulletin 174250–35–1, dated August 1994; as installed on, but not limited to, Dornier Model 228 and 328 series airplanes, Cessna Model 550 and 650 and Citation Model I and II series airplanes, Raytheon Corporate Jets Model HS 125–700A series airplanes, Dassault Mystere Falcon Model 20 series airplanes, Beech Model 400 (Beechjet) series airplanes, and Gulfstream Model G–1159 (G–II) and G–1159A (G–III) series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the flight crew from experiencing difficulty in exhaling into the affected crew oxygen masks, accomplish the following:

(a) Within 60 days after the effective date of this AD, modify the crew oxygen masks, in accordance with Puritan Bennett Service Bulletin 174250–35–1, dated August 1994.

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

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

(d) The modification shall be done in accordance with Puritan Bennett Service Bulletin 174250–35–1, dated August 1994. 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 Puritan Bennett Company, 108000 Pflumm Road, Lenexa, Kansas 66215. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 6, 1994.

Issued in Renton, Washington, on September 14, 1994.

**Donald L. Riggin,**

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

[FR Doc. 94–23222 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–U

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**14 CFR Part 71**

**[Airspace Docket No. 94–AWP–15]**

## Establishment of Class E Airspace; Inyokern Municipal Airport, Inyokern, CA

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Inyokern, CA. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) has been developed for the Inyokern Municipal Airport. Controlled airspace extending from 700 feet above the surface is needed for aircraft executing the approach. This action will provide adequate Class E airspace for instrument flight rules (IFR) operations at Inyokern Municipal Airport.

**EFFECTIVE DATE:** 0901 UTC, December 8, 1994.

**FOR FURTHER INFORMATION CONTACT:** Scott Speer, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 297–0697.

**SUPPLEMENTARY INFORMATION:**

**History**

On June 24, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Inyokern, CA. (59 FR 32669). A Global Positioning System (GPS) standard instrument approach procedure (SIAP) has been developed for the Inyokern Municipal Airport. Controlled airspace extending from 700 feet above the surface is needed for aircraft executing the approach.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received. China Lake Naval Air Weapons Station requested the exclusion of Class E airspace from Restricted Area R–2505. The Restricted Area was excluded in response to their request.

The coordinates in the proposal are based on North American Datum 83. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1.

The Class E airspace designation listed in this document will be published subsequently in this Order.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Inyokern, CA, to establish controlled airspace from 700 feet above the surface for aircraft executing the GPS SIAP into the Inyokern Municipal Airport at Inyokern, CA.

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 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 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth*

* * * * *

**AWP CA E5 Inyokern, CA [New]**

Inyokern Municipal Airport, CA
(lat. 35°39'32" N., long. 117°49'46" W)

That airspace extending upward from 700 feet above the surface within a 2-mile radius of Inyokern Municipal Airport and within 2 miles each side of the 211° (T) bearing extending from the 2-mile radius to 10.3 miles southwest of the Inyokern Municipal Airport excluding that airspace within Restricted Area R–2505.

* * * * *

Issued in Los Angeles, California, on September 7, 1994.

**Dennis T. Koehler,**

*Acting Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 94–23335 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 176

**[Docket No. 89F–0453]**

### Indirect Food Additives: Paper and Paperboard Components

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *N, N, N', N', N'', N''*-hexakis(methoxymethyl)-1,3,5-triazine-2,4,6-triamine polymer with stearyl alcohol, α-octadecenyl-Ω-hydroxypoly(oxy-1,2-ethanediyl), and alkyl ($C_{20+}$) alcohols as a component of paper and paperboard in contact with aqueous foods. This action responds to a petition filed by PPG Industries, Inc.

**DATES:** Effective September 21, 1994; written objections and requests for a hearing by October 21, 1994.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Julius Smith, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of December 19, 1989 (54 FR 51946), FDA announced that a food additive petition (FAP 9B4172) had been filed by PPG Industries, Inc., Pittsburgh, PA 15146, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of *N, N, N', N', N'', N''*-hexakis(methoxymethyl)-1,3,5-triazine-2,4,6-triamine polymer with stearyl alcohol, α-octadecenyl-Ω-hydroxypoly(oxy-1,2-ethanediyl), and alkyl ($C_{20+}$) alcohols as a component of paper and paperboard in contact with aqueous foods.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it may contain minute amounts of unreacted 1,4-dioxane and ethylene oxide, carcinogenic impurities, resulting from the manufacture of the additive. Residual amounts of reactants and manufacturing aids, such as 1,4-dioxane and ethylene oxide, are commonly found as contaminants in chemical products, including food additives.

### I. Determination of Safety

Under Section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the evidence available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additives anticancer, or Delaney, clause (section 409(c)(3)(A) of the act) provides that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not constituents of the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive, *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984).

### II. Safety of the Petitioned Use

FDA estimates that the petitioned use of the additive, *N, N, N', N', N'', N''*-hexakis(methoxymethyl)-1,3,5-triazine-2,4,6-triamine polymer with stearyl alcohol, α-octadecenyl-Ω-hydroxypoly(oxy-1,2-ethanediyl), and alkyl ($C_{20+}$) alcohols, will result in levels of exposure to the additive of no greater than 19 parts per billion in the daily diet (Ref. 1).

FDA does not ordinarily consider chronic toxicological testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data from acute toxicity studies on the additive. No adverse effects were reported in these studies.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limits of risk presented by the carcinogenic chemicals that may be present as impurities in the additive, 1,4-dioxane and ethylene oxide. This risk evaluation of 1,4-dioxane and ethylene oxide has two aspects: (1) Assessment of the worst-case exposure to the impurities from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

*A. 1,4-Dioxane*

FDA has estimated the hypothetical worst-case exposure to 1,4-dioxane from the petitioned use of the additive in the manufacture of paper and paperboard to be 11 nanograms per person per day (ng/person/day) (Ref. 1). The agency used data from a carcinogenesis bioassay on 1,4-dioxane, conducted for the National Cancer Institute (Ref. 3), to estimate the upper-bound limits of lifetime human risk from exposure to this chemical stemming from the proposed use of the additive (Ref. 3). The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas and hepatocellular tumors in female rats.

Based on a potential exposure of 11 ng/person/day, FDA estimates that the upper-bound limits of individual lifetime risk from the potential exposure to 1,4-dioxane from the use of the subject additive is $4x10^{-10}$, or less than 4 in 10 billion (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, actual lifetime averaged individual exposure to 1,4-dioxane is likely to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limits of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to 1,4-dioxane that might result from the proposed use of the additive.

*B. Ethylene Oxide*

FDA estimated that the hypothetical worst-case exposure to ethylene oxide from the petitioned use of the additive in the manufacture of paper and paperboard is 11 ng/person/day (Ref. 1). The agency used data from a carcinogenesis bioassay on ethylene oxide conducted for the Institute of Hygiene, University of Mainz, Germany, to estimate the upper-bound level of lifetime human risk from exposure to ethylene oxide stemming from the proposed use of the additive (Ref. 5). The results of the bioassay on ethylene oxide demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidence of squamous cell carcinomas of the forestomach and carcinoma in situ of the glandular stomach.

Based on a potential exposure of 11 ng/person/day, FDA estimates that the upper-bound limits of individual lifetime risk from the potential exposure to ethylene oxide from the use of the subject additive is $2x10^{-8}$, or less than 2 in 100 million (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, actual lifetime-averaged individual exposure to ethylene oxide is likely to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limits of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that might result from the proposed use of the additive.

*C. Formaldehyde*

A review of the petition also indicates that the additive may contain formaldehyde as an impurity at a dietary concentration of 15 micrograms/person/day. The potential carcinogenicity of formaldehyde was reviewed by the Cancer Assessment Committee (the committee) that has been formed by FDA's Center for Food Safety and Applied Nutrition. The committee noted that for many years formaldehyde has been known to be a carcinogen by the inhalation route, but it concluded that these inhalation studies are not appropriate for assessing the potential carcinogenicity of formaldehyde in food because of the inappropriate route administration and the fact that tumors were observed only locally at the portal of entry (nasal turbinates). The agency has received literature reports of two drinking water studies on formaldehyde: (1) A preliminary report of a carcinogenicity study purported to be positive by Soffritti et al. (1989), conducted in Bologna, Italy (Ref. 7), and (2) a negative study by Til, et al. (1989), conducted in The Netherlands (Ref. 8). The committee reviewed both studies and concluded in a "Memorandum of Conference," dated April 24, 1991 and March 4, 1993, "* * * that data concerning the Soffritti study reported were unreliable and could not be used in the assessment of the oral carcinogenicity of formaldehyde" (Ref. 6). This conclusion is based on a lack of critical details in the study, questionable histopathologic conclusions, and the use of unusual nomenclature to describe the tumors. Thus, the committee concluded that there is no basis to find that formaldehyde is a carcinogen when ingested.

*D. Need for Specifications*

The agency has also considered whether specifications are necessary to control the amount of 1,4-dioxane and ethylene oxide in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which 1,4-dioxane and ethylene oxide may be expected to remain as impurities following production of the additive, the agency would not expect these impurities to become components of food at other than extremely low levels; and (2) the upper-bound limits of lifetime risk from exposure to these impurities, even under worst-case assumptions, is very low, less than 4 in 10 billion and less than 2 in 100 million for 1,4-dioxane and ethylene oxide, respectively.

**III. Conclusion**

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed uses for the additive in paper and paperboard products in contact with aqueous food are safe. Based on this information, the agency has also concluded that the additive will have the intended technical effect. Accordingly, § 176.170 is amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

**IV. Environmental Impact**

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

**V. Objections**

Any person who will be adversely affected by this regulation may at any time on or before October 21, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each

numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. FAP 9B4172—PPG Industries (Submission dated 9–8–89) "Water-Repellant Coating for Paper and Paperboard," Memorandum from the Food and Color Additives Review Section (HFF–415) to the Indirect Additives Branch (HFF–335), January 8, 1990.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," in "Chemical Safety Regulation and Compliance," edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24–33, 1985.

3. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–80, 1978.

4. Memorandum, "Report of the Quantitative Risk Assessment Committee," August 1, 1990.

5. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide Upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924, 1982.

6. Memorandum of Conference, "Meeting of the Cancer Assessment Committee," April 24, 1991, and March 4, 1993.

7. Soffritti, et al., "Formaldehyde: An Experimental Multipotential Carcinogen," *Toxicology and Industrial Health*, Vol. 5, No. 5: pp. 699–730, 1989.

8. Til, et al., "Two-Year Drinking-Water Study of Formaldehyde In Rats," *Food Chemical Toxicology*, Vol. 27, No. 2: pp. 77–87, 1989.

### List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 176 is amended as follows:

## PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

**Authority:** Secs. 201, 402, 406, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 379e).

2. Section 176.170 is amended in the table in paragraph (a)(5) by alphabetically adding a new entry under the headings "List of Substances" and "Limitations" to read as follows:

**§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.**

* * * * *

(a) * * *

(5) * * *

| List of Substances | Limitations |
|---|---|
| * * * * * * * | |
| *N,N,N',N',N''*-Hexakis (methoxymethyl)-1,3,5-triazine-2,4,6-triamine polymer with stearyl alcohol, α-octadecenyl-Ω-hydroxypoly(oxy-1,2-ethanediyl), and alkyl ($C_{20+}$) alcohols (CAS Reg. No. 130328–24–4). | For use only as a water-repellent applied to the surface of paper and paperboard at levels not to exceed 1 percent by weight of the finished dry paperboard fibers. The finished paper and paperboard will be used in contact with aqueous foods under conditions of use B through G as described in Table 2 of paragraph (c) of this section. |
| * * * * * * * | |

* * * * *

Dated: September 6, 1994.

**William K. Hubbard,**

*Interim Deputy Commissioner for Policy.*

[FR Doc. 94–23274 Filed 9–20–94; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### 24 CFR Part 888

[Docket No. N–94–3741; FR–3686–C–03]

## Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors and Section 8 Housing Assistance Payments Program; Fair Market Rents; Correction

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Fair Market Rents; correction.

**SUMMARY:** This action makes a correction to the document on Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustments Factors published on April 26, 1994 (59 FR 21832).

**EFFECTIVE DATE:** April 26, 1994.

**FOR FURTHER INFORMATION CONTACT:** Michael R. Allard, Economic and Market Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, (202) 708–0577 (TDD: (202) 708–0770). (These telephone numbers are not toll-free).

**SUPPLEMENTARY INFORMATION:** The United States Housing Act of 1937 (1937 Act) requires that the assistance contracts signed by owners participating in the Department's Section 8 Housing Assistance Payments programs provide for annual or more frequent adjustment in the maximum monthly rentals for units covered by the contract to reflect changes based on fair market rents prevailing in a particular market area, or on a reasonable formula. The AAF Notice published on April 26, 1994, announced the revised FY 1994 Annual Adjustment Factors (AAF), but contained a technical error. The state of Nevada should have been identified as being part of HUD Region IX. (Under HUD's reorganization, the designation "HUD Region IX" will be "Pacific/Hawaii" in future AAF publications.)

Accordingly, the AAF document published in the **Federal Register** on April 26, 1994 (59 FR 21832), is corrected at page 21850 as set forth in the following table:

SCHEDULE C—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS

NEVADA (HUD REGION IX)

METROPOLITAN COUNTIES

Clark, Nye, Washoe

NONMETROPOLITAN COUNTIES

Churchill, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Pershing, Storey, White Pine, Carson City

Dated: September 15, 1994.

**Brenda Gladden,**

*Acting Assistant, General Counsel for Regulations.*

[FR Doc. 94–23302 Filed 9–20–94; 8:45 am]

BILLING CODE 4210–32–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[OH53–2–6360; FRL–5076–1]**

### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Final rule.

**SUMMARY:** On August 20, 1993, in response to requirements in part D of title I of the Clean Air Act, the Ohio Environmental Protection Agency (OEPA) submitted materials to USEPA pertaining to new source review (NSR) in nonattainment areas. This submittal included no revisions to any Ohio regulations. Instead, the submittal relied on existing pre-1990 NSR rules, described how Ohio intended to implement various applicable part D requirements, and presented a rationale that no revisions to State regulations would be necessary to satisfy these requirements. USEPA disagrees with this rationale and disapproves the State's submittal for failure to satisfy applicable requirements, as proposed on March 4, 1994.

**EFFECTIVE DATE:** This final rule becomes effective on October 21, 1994..

**ADDRESSES:** Copies of the SIP revision request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone John Summerhays at (312) 886–6067 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6067.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Sections 172, 173, 182, 189, and other sections of the Clean Air Act require States to submit implementation plan provisions for new source review in nonattainment areas to USEPA for approval or disapproval. Ohio provided various materials to USEPA between November 1992 and April 1993, but USEPA notified the State on June 1, 1993, that these materials did not constitute a complete submittal and that the State had failed to submit a complete submittal. On August 20, 1993, the Ohio provided new material to USEPA addressing new source review in nonattainment areas. USEPA notified OEPA on October 22, 1993, that it found this August 1993 submittal complete.

USEPA published a notice of proposed rulemaking on the State's submittal on March 4, 1994 (59 FR 10349). This document summarized the history of new source review plans in Ohio, reviewed the submittal of August 20, 1993, and proposed disapproval of the submittal. In a cover letter accompanying the submittal, the OEPA Director stated that Ohio's NSR rules adopted in 1974 were sufficient for USEPA to find the State's submission both complete and approvable. According to the OEPA Director, "Ohio EPA believes that the current, federally approved, Ohio SIP is adequate for fulfilling the requirements of a NSR SIP, and that no changes are necessary. . . . Ohio EPA has thoroughly evaluated the basis for this submittal, and has resolved that the 1974 [NSR] rules remain the vehicle for the U.S. EPA to review as part of this NSR SIP submittal." OEPA also submitted a document dated October 1992 entitled "Requirements for Major New Sources in Nonattainment Areas" (referenced in this document as "Ohio's statement of permitting criteria"). On page 4 of this latter document, the State again states that "Ohio EPA needs not modify the current rules to conform to the legislatively mandated changes under the CAA. In fact, the current state law and Ohio EPA requires that the Director account for these new requirements in the review of new source applications." Ohio thus seeks approval of its existing pre-1990 NSR rules, along with its statement of permitting criteria, as satisfying the NSR SIP submittal requirements of part D of title I of the Act, including the new requirements imposed by the Clean Air Act Amendments of 1990 (1990 Amendments).

Based on a review of the submittal, USEPA proposed that Ohio's submittal failed to satisfy the NSR SIP submittal requirements of part D, both for requirements predating the 1990 Amendments as well as new requirements imposed by the 1990 Amendments. Concerning requirements predating the 1990 Amendments, USEPA explained that the State had failed to make any of the necessary changes to its NSR rules since USEPA's prior action on September 8, 1993 (58 FR 47211) in which USEPA concluded that the State had not satisfied the requirements of part D, even as required before 1990, particularly because of exemptions from NSR permitting for temporary sources and resource recovery facilities. Regarding requirements imposed by the 1990 Amendments, USEPA noted that Ohio's statement of permitting criteria "was not adopted according to the full procedures in Ohio for adoption of regulations, even though this statement is intended to serve purposes normally served by regulations." In an extensive discussion, USEPA also concluded that "the statement of permitting criteria lacks the specificity, the regulatory standing, and the assurance of being enforceable that are needed to satisfy Clean Air Act requirements" and that the State's reliance "on a general regulatory provision (requiring compliance with the Clean Air Act)" fails to authorize the State to impose the necessary "specific, detailed permit conditions." Therefore, USEPA proposed to disapprove Ohio's submittal.

#### II. Comments on Proposed Rulemaking

Subsequent to the proposed rulemaking, Ohio requested an extension of the public comment period, which USEPA granted on May 3, 1994 (59 FR 22776). During the extended comment period, comments were received from OEPA, the local air pollution control agency for the Dayton area, a law firm, and the State Chamber of Commerce. The following summarizes the comments received and USEPA's responses.

*Comment:* All four commenters disputed USEPA's proposed conclusion that Ohio's 1974 regulations and its statement of permitting criteria do not adequately specify applicable new source review requirements. The Chamber of Commerce stated that

Ohio's submittal has the same specificity as Federal law, the law is sufficiently specific and clear, and Ohio's submittal meets all requirements of that law. The State commented that the Clean Air Act Amendments of 1990 are very specific and clearly specify applicable requirements, such that further efforts to define these requirements by regulation would be redundant and unnecessary. Another commenter stated that "specificity and clarity of criteria" are not an appropriate basis for disapproving a submittal which has the same specificity and clarity of criteria as the relevant Federal law, and the fourth commenter stated that "[d]isagreement over [the form that Ohio's permitting mandates take rather than over the substance of those mandates] should not be a basis on which to disapprove Ohio's NSR program."

*Response:* As stated in the proposed disapproval, Ohio's statement of permitting criteria was not adopted pursuant to the applicable Ohio procedures for the adoption of binding, enforceable regulations and did not clearly identify detailed decisionmaking criteria, and therefore "lacks the specificity, the regulatory standing, and the assurance of being enforceable that are needed to satisfy the Clean Air Act requirements." A fundamental principle for SIPs is that SIP measures must be enforceable. See 57 FR 13498, 13568 (April 16, 1982). In its comments, OEPA did not dispute USEPA's conclusion that Ohio's statement of permitting criteria does not constitute binding regulations and is unenforceable. Instead, the State merely responded that "[t]he requirements of the CAAA are clearly enforceable via existing Ohio regulations" (emphasis added). Ohio's response makes it clear that its statement of permitting criteria is not enforceable and that Ohio seeks approval of its submission based on its existing pre-1990 NSR rules. Accordingly, USEPA concludes that it cannot rely on the unenforceable statement of permitting criteria to approve Ohio's submittal.

USEPA also evaluated whether Ohio's existing NSR rules, adopted well before the 1990 Amendments, satisfy current NSR SIP requirements. As the State conceded in its statement of permitting criteria, several applicable sections of the amended Act, including sections 182(a)(2)(C) and 189(a)(2)(A), required states to submit revisions to their State Implementation Plans for nonattainment NSR permits by various dates in 1992 and 1993. As described above, the State contends that its existing pre-1990 NSR rules are sufficient to meet current requirements because they require adherence to "applicable law," including the Clean Air Act. Thus, instead of submitting revisions to its rules, Ohio asserted that no such revisions are necessary. USEPA disagrees. It should be self-evident that Ohio's reliance on its existing pre-1990 NSR rules does not satisfy the statutory mandates enacted in 1990 for revisions to the State's NSR rules. USEPA reaffirms its view that a reference in existing state rules to the Clean Air Act, and references to pre-1990 sections of the Act, do not satisfy current NSR SIP requirements.

USEPA believes that the Act requires States to adopt specific, enforceable rules to implement the Act's requirements for a nonattainment new source review program. Although not mandated by the Act, USEPA has already provided general guidance to states concerning NSR SIP requirements (See 57 FR 13498, 13552–13556 (April 16, 1982); 57 FR 55620, 55623–55624 (Nov. 25, 1992)), and plans to issue further guidance and rules concerning NSR SIP measures later in 1994. Although certain provisions in the Act may present questions of statutory interpretation, USEPA finds that Ohio's NSR submission, consisting primarily of existing pre-1990 NSR rules supplemented by the unenforceable statement of permitting criteria completely fail to satisfy the statutory obligation to submit specific revisions to its NSR SIP rules.[1]

This regulatory situation is typical. Statutes usually establish general requirements and usually cannot be successfully implemented without detailed regulations clearly specifying criteria for evaluating individual cases. Thus, the issue is not simply philosophical or superficial, but rather a fundamental question of whether Ohio has properly set forth a regulatory framework under which to implement the mandated provisions, and whether USEPA or a member of the public could successfully object if a permit were proposed that would violate NSR requirements.

USEPA believes that it would be difficult and impractical for a commenter to object to a proposed permit based on statutory provisions in the amended Act where USEPA had approved the SIP as satisfying the requirements of the amended Act but where the SIP did not contain specific provisions to implement the amended Act. USEPA further believes that Federal enforcement of NSR requirements would be severely jeopardized by USEPA approval of NSR SIP provisions that fail to contain specific provisions implementing the amended Act. Ohio's SIP submission fails to provide enforceable NSR provisions which assure compliance with the amended Act and therefore are disapproved.

A discussion of comments and responses below addresses specific requirements for offsets, offset ratios, and major source and major modification definitions. The technical support document for the proposed rulemaking also identified deficiencies with respect to the alternatives analysis requirement, and observed that Ohio's statement of permitting criteria mistakenly assigns various USEPA responsibilities regarding clean coal technology demonstration projects to OEPA, such as promulgation of national regulations and review of other States' submittals. No comments were submitted on these latter deficiencies, and so they remain as additional examples of Ohio's submittal being inadequate to implement the mandated requirements.

*Comment:* The State further commented regarding emissions offsets that "[t]hese requirements are all contained and specified in either Federal rules, the Clean Air Act Amendments of 1990 or in Ohio EPA policy."

*Response:* As discussed above, Ohio's existing NSR rules do not contain (either directly or by reference) a definition of offset ratios reflecting the amended Clean Air Act. Ohio observes that the Clean Air Act identifies the values of the ratios to be used in various circumstances. However, Ohio does not address the concern identified in the NPR with the absence (in either the existing NSR rules or Ohio's statement of permitting criteria) of detailed, explicit criteria for evaluating offset ratios. Relevant criteria include whether fugitive or secondary emissions (with or without mobile source emissions) are to be included in computing the ratio, what averaging time to use, whether the numerator or denominator is to be potential to emit or actual emissions, and where the offsets may occur. Since these criteria are not explicit or implicit elements of Ohio's rules, it would be difficult and impractical to implement the mandated offset ratios effectively and consistent with the Clean Air Act.

[1] E.g., lowered major source thresholds, provisions governing NOx as an ozone precursor in ozone nonattainment areas, specific mandated offset ratios and other provisions governing emission offsets, a provision that emission reductions otherwise required by the Act are not creditable to satisfy NSR offset requirements, and an alternatives analysis requirement for all nonattainment NSR permits.

*Comment:* The State agrees that "Appendix S is not explicit in requiring annual, actual offsets," but observes that this requirement has been established by OEPA policy and is given in Ohio's submitted statement of permitting criteria.

*Response:* USEPA acknowledges that OEPA interprets its regulation to require annual, actual offsets. However, this requirement should be given full regulatory standing by being incorporated into enforceable Ohio regulations.

*Comment:* The State asserts that it has properly relied on definitions which are given in appendix S to 40 CFR part 51.

*Response:* The definitions in appendix S are insufficient because of differences between appendix S and the amended Clean Air Act. Appendix S defines major stationary sources as sources with the potential to emit 100 tons per year (or sources modified such that potential to emit increases by 100 tons per year). The Clean Air Act provides that the term "major stationary source" in some areas includes sources with lower potential to emit, such as 50 tons per year in Serious ozone nonattainment areas. See section 182 of the Act. Since Ohio's regulations reference both the Clean Air Act and appendix S, Ohio's regulations are unclear as to which cutoffs apply.

*Comment:* The State commented on USEPA's uncertainty as to whether the State intended in its statement of permitting criteria to lower the threshold of nitrogen oxides ($NO_x$) source sizes at which major modifications would trigger new source review. The State commented it "does not intend to change this threshold."

*Response:* Notwithstanding its recent comments, the State did not change its statement of permitting criteria. Thus, Ohio's submittal contains a statement of permitting criteria that contradicts the criteria for major $NO_x$ modifications given by reference (i.e. in appendix S) in Ohio's regulations.

*Comment:* Three commenters commented that requiring new State regulations every time Federal rules change would cause delays and reduce the adaptability of the new source review process.

*Response:* With respect to the requirements of the 1990 Amendments, this rulemaking does not concern whether hypothetical Federal rule changes would require State rule revisions but rather whether the 1990 Amendments require State rule revisions. The Clean Air Act has had significant amendments only twice since 1970, whereas Ohio has changed its Permit to Install (NSR) rules eight times during the same period. The commenters seek an approach that allows one set of State rules to impose changing requirements in accordance with changes in Federal mandates, but such approaches are prone to be too vague as to the precise obligations of regulated entities imposed by the rules and statute. In this particular case, the State's reference to the general mandates in the amended Clean Air Act does not provide sufficient specificity on the implementation of these mandates to be enforceable. In any event, Congress clearly provided for States to revise their SIP rules in accordance with the 1990 Amendments.

These comments raise a further issue, namely the extent to which a State may change permitting requirements without providing opportunity for public input by means of a rule revision process. Ohio argues that the State's regulations provide for the applicability of requirements resulting from subsequent Clean Air Act amendments even without revision of the State rules. Under this view, there would be no reason for any State SIP submittal at all, and therefore no opportunity for public review and comment on the changed requirements. This runs counter to the general principle that regulations are to be interpreted based on requirements contemplated at the time of regulation adoption and not on the basis of subsequently devised criteria. For this reason as well, the State and USEPA would face obstacles in trying to enforce the requirements of the Clean Air Act Amendments of 1990.

*Comment:* The State comments "U.S. EPA had expressed a concern about certain items that were identified in the Clean Air Act as part of the review of new sources which were not identified in either state or Federal rules. Ohio EPA proposed a policy that includes these additional Federal requirements. The policy was issued in proposed format and a public hearing was held on the document. After a review of the comments, Ohio EPA submitted that policy as part of the State Implementation Plan."

*Response:* The State implicitly agrees that certain requirements in the Clean Air Act are not addressed by any rules contained or referenced in the State's SIP, which suggests further that these requirements have not been given regulatory standing in Ohio. The notice of proposed rulemaking focussed on Ohio's statement of permitting criteria, which USEPA finds to be an inadequate instrument for giving these requirements regulatory standing, notwithstanding that this policy statement was subject to public hearing. (Ohio had previously provided essentially the same policy statement without public review, but USEPA judged this and related material not to constitute a complete submittal.)

*Comment:* The State commented on USEPA's concern that two source categories (certain types of municipal waste combustors and temporary sources) are exempted by appendix S and thus by Ohio rules and yet are not to be exempted under 40 CFR 51.165. The State commented that Ohio permits must comply with Federal law, Federal law does not permit these exemptions, and so the State has developed guidance that these exemptions do not apply.

*Response:* The State did not submit to USEPA the guidance that it claims provides that these exemptions do not apply. The State's SIP does contain appendix S, incorporated by reference in Rule 3745–31–05, and indeed relies on appendix S to interpret applicable new source review requirements. Consequently, Ohio's regulations are to be interpreted as also providing the exemptions in appendix S and therefore do not satisfy even the pre-1990 NSR requirements of part D of title I of the Act.

*Comment:* A local air pollution control agency comments that USEPA's involvement in permit oversight assures that Federal requirements will not be misapplied.

*Response:* Although USEPA agrees that its permit oversight can improve the quality of State permits, such an oversight program is not a substitute for an approvable SIP. USEPA cannot through oversight establish or correct requirements which are not correctly provided in the State regulations.

*Comment:* A commenter believes that USEPA acknowledges that Ohio's statutes and regulation "already require that the provisions of the amended Clean Air Act be met."

*Response:* The commenter is quoting statements that USEPA used to characterize the State's position; these statements do not represent USEPA's position.

### III. Final Action

Notwithstanding comments to the contrary, USEPA's review indicates that Ohio's submittal does not clearly establish the specific criteria required by the Act by which judgments in new source permitting will be made. Furthermore, by relying not on properly adopted regulations but rather on a general regulatory provision (requiring compliance with the Clean Air Act) in conjunction with an unenforceable statement of permitting criteria, the State has failed to adopt enforceable SIP

provisions to implement an NSR program in accordance with the Clean Air Act requirements. Furthermore, Ohio's existing regulations exempt two types of sources which may not be exempted under the Act and applicable USEPA regulations. For these reasons, USEPA takes final action to disapprove Ohio's submittal for failure to satisfy part D requirements.

Under section 179(a)(2), one of the sanctions set forth in section 179(b) shall apply unless the deficiency has been corrected within 18 months of the effective date of this disapproval. Extensive discussion of USEPA's sanctions procedures is given in the **Federal Register** of August 4, 1994, at 59 FR 39832. Pursuant to 40 CFR 52.31, unless a revised plan has been submitted and proposed for approval in the meantime, a requirement for two-for-one offsets shall apply to any permits issued after [insert date 18 months after 30 days from date of publication] for major new sources and modifications in nonattainment areas. Highway funding sanctions shall apply [insert date 24 months after 30 days from date of publication], again unless a revised plan has been submitted and proposed for approval in the meantime.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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.

USEPA's disapproval of the State request under section 110 and part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new Federal requirements.

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), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 21, 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, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: September 8, 1994.

**Valdas V. Adamkus,**

*Regional Administrator.*

Chapter I, part 52, title 40 of the Code of Federal Regulationsis amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

**Authority:** 42 U.S.C. 7401–7671q.

### Subpart KK—Ohio

2. Section 52.1879 is amended by adding paragraph (a) to read as follows:

**§ 52.1879 Review of new sources and modifications.**

(a) The requirements of sections 172, 173, 182, and 189 for permitting of major new sources and major modifications in nonattainment areas for ozone, particulate matter, sulfur dioxide, and carbon monoxide are not met, because Ohio's regulations exempt source categories which may not be exempted and because the State has not adopted the new permitting requirements of the Clean Air Act Amendments of 1990 in a clear or enforceable manner.

* * * * *

[FR Doc. 94–23349 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–F

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**40 CFR Parts 52 and 81**

**[OH06–2–6229A, OH01–2–6230A, OH32–2–6231A; FRL–5073–5]**

## Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Final rule.

**SUMMARY:** USEPA is approving a redesignation request and maintenance plan for Preble, Columbiana, and Jefferson Counties, Ohio as a revision to Ohio's State Implementation Plan (SIP) for ozone.

The revision is based on a request from the State of Ohio to redesignate these areas, and approve their maintenance plans, and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

**DATES:** This final rule becomes effective on November 21, 1994 unless notice is received by October 21, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

**ADDRESSES:** Written comments should be addressed to:

William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the requested redesignation, maintenance plan, and other materials relating to this rulemaking are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604; and Air Docket 6102, United States Environmental Protection, Agency, 401 M Street, SW., Washington, DC 20460. (It is recommended that you telephone William Jones at (312) 886–

6058, before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** William Jones, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6058.

**SUPPLEMENTARY INFORMATION:** Under Section 107(d) of the pre-amended Clean Air Act (CAA), the United States Environmental Protection Agency (USEPA) promulgated the ozone attainment status for each area of every State. For Ohio, Preble, Columbiana, and Jefferson Counties were designated as nonattainment areas for ozone. See 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. No. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Pursuant to Section 107(d)(1)(C) of the CAA, Preble, Jefferson, and Columbiana Counties retained their designations of nonattainment for ozone by operation of law. See 56 FR 56694 (November 6, 1991). At the same time Preble, and Jefferson Counties were classified as transitional areas; and Columbiana County was classified as an incomplete data area.

The Ohio Environmental Protection Agency (OEPA) requested that Preble County be redesignated to attainment in a letter dated May 23, 1986; and that Jefferson and Columbiana Counties be redesignated to attainment in a letter dated July 14, 1986. On December 20, 1993, the United States Environmental Protection Agency (USEPA) proposed to disapprove the requested redesignations (see 58 FR 66334). The public comment period was from December 20, 1993, to January 19, 1994. In a January 18, 1994, letter, the State of Ohio requested a 90-day extension of the comment period. On February 18, 1994, the USEPA extended the comment period until April 19, 1994 (see 59 FR 8150). The OEPA submitted maintenance and contingency plans for the counties in a submittal dated April 14, 1994, and requested parallel processing of the submittal. The results of OEPA's public hearing and resulting revision to the maintenance and contingency plan was submitted in a letter dated August 10, 1994. Notwithstanding these submittals, no public comments specifically commenting on the proposed rulemaking were received during the extended comment period.

**I. Review of the Requests**

The State's May 23, 1986, and July 14, 1986, requests were previously reviewed in a proposed rulemaking published on December 20, 1993, (see 58 FR 66334) in which USEPA proposed to disapprove the requests due to a lack of maintenance and contingency plans and enforceability deficiencies in their Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) regulations. Since that time the State has submitted additional information to address the basis of the proposed disapproval. The review of the previous submittal and the basic redesignation requirements are not summarized in this notice, but the reader is referred to the December 20, 1993, notice referenced above for a summary of the requirements and the previous submittal. The April 14, 1994, and August 10, 1994, submittals are summarized below and the requirements that were not met in the original submittal are addressed below

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required the USEPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of the final USEPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the implementation of Title I informed States that its conformity regulations would establish a submittal date. See 57 FR 13498, 13557 (April 16, 1992).

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 24, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit SIP revisions containing transportation and general conformity criteria and procedures consistent with those established in the Federal rule by November 25 and 30, 1994, respectively. Because the deadline for such submittals has not yet come due, it is not an applicable requirement, under section 107(d)(3)(E)(v), for approval of this redesignation request.

*A. Preble County*

The maintenance plan provided for this county consists of an emissions and air quality summary; a mobile, area, and point source emissions inventory; and Permits-to-Install for all subject sources in Preble County.

The emissions summary for volatile organic compounds (VOCs) and oxides of nitrogen ($NO_X$) are provided below·

TABLE 1.—VOC EMISSIONS IN TONS PER SUMMER DAY

| Year | Point sources | Area sources | Mobile sources | Totals |
|---|---|---|---|---|
| 1990 ..... | 0.24 | 41.13 | 4.16 | 45.52 |
| 1995 ..... | 0.27 | 41.33 | 2.53 | 44.12 |
| 2005 ..... | 0.34 | 41.64 | 1.93 | 43.92 |

TABLE 2.—$NO_X$ EMISSIONS IN TONS PER SUMMER DAY

| Year | Point sources | Area sources | Mobile sources | Totals |
|---|---|---|---|---|
| 1990 ..... | 0.00 | 5.91 | 4.80 | 10.71 |
| 1995 ..... | 0.00 | 6.16 | 3.96 | 10.12 |
| 2005 ..... | 0.00 | 6.29 | 2.81 | 9.10 |

The total emissions are projected to decrease in the county, and, as a result, the county is expected to maintain the ozone air quality standard for the next ten (10) years. The mobile source $NO_X$ and VOC emissions projections for the year 2005 will be the "budget" for transportation conformity purposes. The air quality monitoring data submitted by the State shows that the area is still in attainment of the National Ambient Air Quality Standards (NAAQS) for ozone.

Preble County, which was designated nonattainment prior to enactment of the Clean Air Act Amendments of 1990, must correct existing RACT rules for enforceability deficiencies. See 57 FR 13562. The State submitted copies of Permits-to-Install for all subject sources in the county. These permits indicate that no sources in the county are affected by a Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) rule that has an enforceability deficiency. The one source that would have been affected (degreaser) was permanently shut down. This satisfies the requirement for correcting enforceability deficiencies in the county.

The maintenance plan also includes a contingency measure that the State will use to ensure maintenance of the NAAQS for ozone. The State has committed to lower Reid Vapor Pressure (RVP) gasoline as the contingency measure. This would be implemented in the case of a violation in the area. In order for the State to use lower RVP gasoline, a finding of necessity must first be made by USEPA under Section 211(c)(4)(C). If this finding of necessity is not provided, Ohio EPA has committed to choose an alternative unspecified emission control measure deemed appropriate based upon a consideration of cost-effectiveness, VOC reduction potential, economic and social considerations, or other factors that the State judges to be appropriate. This decision would be made and implemented within 12 months from the official notification by USEPA that a waiver would not be granted. OEPA also provided the following schedule for implementing the lower RVP measure:

TABLE 3.—SCHEDULE FOR IMPLEMENTING LOWER RVP

| Date | Action/event |
|---|---|
| March 15, 1994 ..... | Submit draft rules to USEPA. |
| October 15, 1994 .. | Submit final rules to USEPA. |
| Trigger event ..... | Monitored violation. |
| 1 month from trigger. | Ohio EPA finding of violation announced. |
| | Ohio EPA submits request for program budget. |
| | Ohio EPA hires additional staff for program. |
| 2 months from trigger. | Ohio EPA secures lab contracts. |
| 3 months from trigger. | Ohio EPA purchases needed equipment. |
| 4 months from trigger. | Ohio EPA initiates public awareness program. |
| | Ohio EPA secures lab equipment. |
| Six months from trigger. | Gasoline Dispensing Facilities achieve final compliance. |

*B. Jefferson County*

The maintenance plan provided for this county consists of emissions, and air quality summaries; and mobile, area, and point source emissions inventories.

The emissions summaries for volatile organic compounds (VOCs) and oxides of nitrogen ($NO_X$) are provided below:

TABLE 4.—VOC EMISSIONS IN TONS PER SUMMER DAY

| Year | Point sources | Area sources | Mobile sources | Totals |
|---|---|---|---|---|
| 1990 ..... | 1.13 | 6.50 | 8.51 | 16.14 |
| 1996 ..... | 1.20 | 6.40 | 4.93 | 12.53 |
| 2005 ..... | 1.33 | 6.30 | 4.11 | 11.74 |

TABLE 5.—$NO_X$ EMISSIONS IN TONS PER SUMMER DAY

| Year | Point sources | Area sources | Mobile sources | Totals |
|---|---|---|---|---|
| 1990 ..... | 378 | 2.7 | 4.7 | 385.4 |
| 1996 ..... | 376 | 2.7 | 4.1 | 382.8 |
| 2005 ..... | 340 | 2.6 | 3.4 | 346.0 |

The total emissions are projected to decrease in the county and, as a result, the county is expected to maintain the ozone air quality standard. The mobile source $NO_X$ and VOC emissions projections for the year 2005 will be the budget for transportation conformity purposes. The air quality monitoring data submitted by the State shows that the area is still in attainment of the NAAQS for ozone.

The maintenance plan also includes a contingency measure that the State will use to ensure maintenance of the NAAQS for ozone. This is the same plan that is outlined above for Preble County.

This county is similar to Preble in that it is a transitional area. The main difference between them is that Jefferson County was never included in the post 1987 SIP call letters issued by USEPA to OEPA (dated May 26, 1988, and November 8, 1989), and was never cited as having RACT deficiencies, as Jefferson County was not in violation of the NAAQS. Thus Jefferson County is not subject to a requirement to correct RACT deficiencies.

*C. Columbiana County*

The maintenance plan provided for this county consisted of an emissions summary; and mobile, area, and point source emissions inventories.

The emissions summaries for volatile organic compounds (VOCs) and oxides of nitrogen ($NO_X$) are provided below:

TABLE 6.—VOC EMISSIONS IN TONS PER SUMMER DAY

| Year | Point sources | Area sources | Mobile sources | Totals |
|---|---|---|---|---|
| 1990 ..... | 1.89 | 10.40 | 11.69 | 23.98 |
| 1996 ..... | 1.98 | 10.60 | 6.79 | 19.37 |
| 2005 ..... | 2.25 | 10.80 | 5.65 | 18.70 |

TABLE 7.—$NO_X$ EMISSIONS IN TONS PER SUMMER DAY

| Year | Point sources | Area sources | Mobile sources | Totals |
|---|---|---|---|---|
| 1990 ..... | 0.06 | 4.60 | 7.00 | 11.66 |
| 1996 ..... | 0.06 | 4.80 | 6.03 | 10.89 |
| 2005 ..... | 0.07 | 4.90 | 5.05 | 10.02 |

The total emissions are projected to decrease in the county and, as a result, the county is expected to maintain the ozone air quality standard. The mobile source $NO_X$ and VOC emissions projections for the year 2005 will be the budget for transportation conformity. The maintenance plan also includes a contingency measure that the State will use to ensure maintenance of the NAAQS for ozone. This is the same plan that is outlined above for Preble County.

This county is similar to Jefferson in that it was not included in the post 1987 USEPA SIP call letters to OEPA, and was never cited as having RACT deficiencies, as Columbiana County was not in violation of the NAAQS. Thus Columbiana County is not subject to a requirement to correct RACT deficiencies.

**Rulemaking Action**

The ozone redesignation requests for Preble, Jefferson, and Columbiana Counties are approved as meeting conditions of the CAA in section 107(d)(3)(E) for redesignation, since: (1) The area has attained the NAAQS for ozone; (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations; (iv) The Administrator is fully approving maintenance plans for the counties as meeting the requirements of section 175A; and (v) Ohio has met all requirements applicable to the counties under section 110 and part D.

Because USEPA considers this action to be noncontroversial and routine, the USEPA is approving it without prior approval. This action will become effective on November 21, 1994. However, if the USEPA receives adverse comments by October 21, 1994, then the USEPA will publish a document that withdraws the action, and will address these comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the proposed rules section of this **Federal Register**. The comment

period will not be extended or reopened.

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.

This action has been classified as a Table three (3) action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table two (2) and three (3) SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for a period of two (2) years. USEPA has submitted a request for a permanent waiver for Table two (2) and Table three (3) SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993. OMB has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

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 November 21, 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 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

*40 CFR Part 81*

Air pollution control.

Dated: September 8, 1994.

**Valdas V. Adamkus,**

*Regional Administrator.*

Chapter 1, 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—[Amended]

2. Section 52.1885 is amended by adding a new paragraph (a)(5) to read as follows:

**§ 52.1885 Control strategy: Ozone.**

* * * * *

(a) * * *

(5) The ozone maintenance plans for Preble, Columbiana, and Jefferson Counties.

* * * * *

## PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO

1. The authority citation of part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

2. In § 81.336, the ozone table is amended by revising the entries for Columbiana, Preble, and Jefferson Counties to read as follows:

**§ 81.336 Ohio.**

* * * * *

OHIO—OZONE

| Designated area | Designation | | Classification | |
|---|---|---|---|---|
| | Date[1] | Type | Date1 | Type |
| * * * | * | * | * | * |
| Columbiana County Area Columbiana County | October 21, 1994. | Attainment | | |
| * * * | * | * | * | * |
| Preble County Area Preble County | October 21, 1994. | Attainment | | |
| Steubenville Area Jefferson County | October 21, 1994. | Attainment | | |
| * * * | * | * | * | * |

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 94–23296 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[NC66–1–6567a; FRL–5071–5]

## Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On April 27, 1994, the North Carolina Department of Environmental Management (NCDEM), submitted a maintenance plan and a request to redesignate the Winston-Salem/Forsyth County area from nonattainment to attainment for carbon monoxide (CO). The CO nonattainment area consists only of Forsyth County. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the North Carolina request because it meets the maintenance plan and redesignation requirements set forth in the CAA.

DATES: This final rule will be effective November 7, 1994, unless critical or adverse comments are received by October 21, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to Ben Franco, at the EPA Regional Office listed below. Copies of the redesignation request and the State of North Carolina's submittal are available for public review during normal business hours at the addresses listed below.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460;

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia, 30365;

Department of Environment, Health and Natural Resources, P.O. Box 29535, Raleigh, North Carolina, 27626–0535.

FOR FURTHER INFORMATION CONTACT: Ben Franco of the EPA Region IV Air Programs Branch at (404) 347–3555, ext. 4211, and at the above address.

SUPPLEMENTARY INFORMATION:

### I. Background

In a March 15, 1991, letter to the EPA Region IV Administrator, the Governor of North Carolina recommended the area of Winston-Salem/Forsyth County be designated as nonattainment for CO as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAA) (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The city was designated nonattainment and classified as "moderate" under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR part 81, § 81.334.) Because Winston-Salem had a design value of 9.7 ppm (based on 1988 and 1989 data), the area was considered moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas.

Forsyth County has ambient monitoring data showing attainment of the CO NAAQS, during the period from 1990 through 1993. The area has continued to monitor attainment to date in 1994. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on April 27, 1994, the State of North Carolina submitted a CO redesignation request and a maintenance plan for the Winston-Salem/Forsyth County area. The request for redesignation submittal and maintenance plan was approved by NCEMC on April 14, 1994. North Carolina submitted evidence that a public hearing was held on March 25 and 28, 1994.

### II. Evaluation Criteria

The 1990 CAA Amendments revised section 107(d)(1)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;

2. The area must meet all applicable requirements under section 110 and Part D of the CAA;

3. The area must have a fully approved SIP under section 110(k) of CAA;

4. The air quality improvement must be permanent and enforceable; and,

5. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

### III. Review of State Submittal

On June 14, 1994, Region IV determined that the information received from the NCDEM constituted a complete redesignation request under the general completeness criteria of 40 CFR part 51, appendix V, §§ 2.1 and 2.2.

The North Carolina redesignation request for the Winston-Salem/Forsyth County area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how the State has fulfilled each of these requirements. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

*1. Attainment of the CO NAAQS*

The North Carolina request is based on an analysis of quality assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. The ambient air CO monitoring data for calendar year 1990 through calendar year 1993 shows no violations of the CO NAAQS in the Winston-Salem/Forsyth County area. The most recent ambient CO data for the calendar year 1994 continue to show no violations in the Winston-Salem/Forsyth County area. Because the Winston-Salem/Forsyth County area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years, the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and appendix C). North Carolina has committed to continue monitoring in this area in accordance with 40 CFR part 58.

*2. Meeting Applicable Requirements of Section 110 and Part D*

The 1990 CAA Amendments, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA has reviewed the SIP to ensure that it contains all measures that were due under the 1990 Amendments prior to or at the time the State submitted its redesignation request.

A. Section 110 Requirements

Although section 110 was amended by the 1990 Amendments, the Winston-Salem/Forsyth County SIP meets the requirements of amended section 110(a)(2). The State implemented an Oxygenated Fuel program for the areas of Raleigh/Durham and Winston-Salem during the 1992 and 1993 winter seasons. EPA has analyzed the SIP and determined that it is consistent with the

requirements of amended section 110(a)(2).

B. Part D Requirements

Before Winston-Salem/Forsyth County may be redesignated to attainment, it also must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 3 of part D establishes additional requirements for nonattainment areas classified under section 186(a). The Winston-Salem area was classified as moderate (See 40 CFR 81.334). Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and the requirements of subpart 3 of part D, which became due on or before April 27, 1994, the date the State submitted a complete redesignation request. EPA interprets section 107(d)(3)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that become applicable to the subject area prior to or at time of the submission of the redesignation request. The area will become subject to the CAA that come due subsequent to the submission of the redesignation request until the request is approved (See section 175A(c)) and if the redesignation is disapproved, the State remains obligated to fulfill those requirements.

*B1. Subpart 1 of Part D*—Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator but no later than three years after an area is designated as nonattainment. Because Winston-Salem was designated as a new CO nonattainment area on June 6, 1992, the requirements are not due until June 6, 1995. Therefore, the submission of a New Source Review program and contingency measures required under 172(c) are not yet due. The Region is, however, in the process of approving the State's revised NSR regulation which includes CO nonattainment areas. Upon redesignation of these areas to attainment, the Prevent of Significant Deterioration (PSD) provisions contained in part C of title I are applicable. On June 12, 1975, December 30, 1976, June 19, 1978, August 7, 1980, February 23, 1982, and August 15, 1994, EPA approved revisions to the State of North Carolina's PSD program (See 40 FR 25004, 41 FR 56805, 43 FR 26388, 45 FR 52676, 47 FR 7836, 59 FR 41708).

*B2. Subpart 1 of Part D*—Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).

EPA promulgated final conformity regulations on November 24, 1993 (58 FR 62188) and November 30, 1993 (58 FR 63214). These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of North Carolina is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, North Carolina is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals have not yet come due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

*B3. Subpart 3 of Part D*—Under section 187(a) areas designated nonattainment for CO under the amended CAA and classified as moderate were required to meet several requirements by November 15, 1992. North Carolina was required to submit a 1990 Emission Inventory. EPA has reviewed and is approving in this notice North Carolina's 1990 Base Year Emission Inventory. The requirement to make I/M corrections are not applicable to Forsyth County since it was not a pre-enactment nonattainment area, and therefore did not have an existing program before the CAA. Section 211(m) further required North Carolina to submit an oxygenated fuels regulation for the Winston-Salem area. North Carolina submitted a complete Oxygenated Fuel SIP on November 20, 1992. The Oxygenated Fuel Program is fully adopted and has been approved by EPA (See 59 FR 33683 published on June 30, 1994). Therefore, all Subpart 3 requirements that were applicable at the time the State submitted its redesignation request have been met.

*3. Fully Approved SIP Under Section 110(k) of the CAA*

Based on EPA's approval of SIP revisions under the 1990 Amendments, EPA has determined that the Winston-Salem/Forsyth County area has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and Part D as discussed above.

*4. Improvement in Air Quality Due to Permanent and Enforceable Measures*

The control measures to which the emission reductions are attributed mostly to the Federal Motor Vehicle Control Program (FMVCP). The fleet turnover under the FMVCP produced annual CO emission reductions of 6 percent.

In association with its emission inventory discussed below, the State of North Carolina has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

*5. Fully Approved Maintenance Plan Under Section 175A*

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the

maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is approving the State of North Carolina's maintenance plan for the Winston-Salem/Forsyth County area because EPA finds that North Carolina's submittal meets the requirements of section 175A.

A. Emissions Inventory—Base Year Inventory

On November 16, 1992, the State of North Carolina submitted a comprehensive inventory of CO emissions from the Winston-Salem/Forsyth County area. The inventory includes emissions from area, stationary, and mobile sources using 1990 as the base year for calculations. The 1990 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1990.

The State submittal contains the detailed inventory data and summaries by county and source category. The comprehensive base year emissions inventory was submitted in the National Emission Data System format. Finally, this inventory was prepared in accordance with EPA guidance. It also contains summary tables of the 1990 base year and was projected to the year 2005.

CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

| Year | Area | Non-road | Mobile | Point | Total |
|---|---|---|---|---|---|
| 1990 | 32.82 | 0.95 | 285.79 | 4.44 | 324.00 |
| 1993[1] | 33.40 | 0.97 | 186.59 | 4.57 | 225.53 |
| 1996 | 34.40 | 0.99 | 212.6 | 64.71 | 252.76 |
| 1999 | 36.05 | 1.01 | 195.93 | 4.85 | 237.84 |
| 2002 | 37.09 | 1.03 | 187.23 | 4.97 | 230.32 |
| 2005 | 37.83 | 1.04 | 183.90 | 5.06 | 227.83 |

[1] Oxygenated Fuel program was in place.

B. Demonstration of Maintenance—Projected Inventories

Total CO emissions were projected from 1990 base year out to 2005. These projected inventories were prepared in accordance with EPA guidance. North Carolina will not continue the Oxygenated Fuel program in Winston-Salem. The projections show that calculated CO emissions, assuming no oxygenated fuels program after 1993, are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that Winston-Salem will maintain the CO standard without the program, and the program would no longer be implemented following redesignation. In case of an air quality problem, the program may be implemented as a contingency measure.

C. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Winston-Salem/Forsyth County area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has also committed to submit periodic inventories of CO emissions every three years.

D. Contingency Plan

The level of CO emissions in the Winston-Salem/Forsyth County area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Also, section 175(A)(d) of the CAA requires that the contingency provisions include a requirement that the State implement all measures contained in the SIP prior to redesignation. Therefore, North Carolina has provided contingency measures with a schedule for implementation in the event of a future CO air quality problem. The plan contains triggering mechanisms to determine when contingency measures are needed. The Winston-Salem/Forsyth County contingency plan's primary trigger will be a violation of the CO NAAQS. A secondary trigger will be activated within 30 days of the State finding either: (1) The periodic emissions inventory exceeds the base inventory by 10 percent or more, or (2) a monitored air quality exceedance pattern indicates that an actual CO NAAQS violation may be imminent. A pattern will be deemed to indicate an imminent violation if: (a) One exceedance of the standard per year has been monitored at a single monitor for two successive years and those exceedances are at least greater than 20 percent above the standard (i.e., 10.8 ppm or above) or (b) the monitored air quality exceedance pattern otherwise suggest that a CO NAAQS violation is likely. Within 45 days of the trigger, the State will activate the pre-adopted regulations discussed below to become effective at the beginning of the next CO season. When other measures are needed to ensure that a future violation of the CO NAAQS does not occur, the State will complete the adoption process within one year of the secondary trigger. As the State has demonstrated that the area will continue to maintain the standard without the Oxygenated Fuels program, the State will make that program a contingency measure that will be implemented in the event of a trigger being activated. In case of a primary or secondary trigger, NCDEM will implement an oxygenated gasoline fuel program or expand an already-existing program's coverage. In addition, NCDEM may do one or a combination of the following: expand the I/M program coverage; upgrade to an enhanced I/M program; institute transportation control measures; or implement an employee commute options program. EPA finds that the contingency measures provided in the State submittal meet the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

**Final Action**

EPA is approving the Winston-Salem/Forsyth County CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, the Agency is approving the request and redesignating the Winston-

Salem/Forsyth County CO area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 7, 1994 unless, by October 21, 1994 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 7, 1994.

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.

The CO SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the CO NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 179(a) of the CAA) and in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k)(2) of the CAA.

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, it does not have any economic impact on any small entities. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Accordingly, I certify that the approval of the redesignation request will not have an impact on any small entities.

**List of Subjects**

*40 CFR Part 52*

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

*40 CFR Part 81*

Air pollution control, National parks, and Wilderness areas.

Dated: September 2, 1994.

**Joe R. Franzmathes,**

*Acting Regional Administrator.*

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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(75) to read as follows:

**§ 52.1770 Identification of plan.**

* * * * *

(c) * * *

(75) The redesignation and maintenance plan for Winston-Salem/Forsyth County submitted by the North Carolina Department of Environmental Management on April 27, 1994, as part of the North Carolina SIP. The emission inventory projections are included in the maintenance plan.

(i) Incorporation by reference.

(A) Maintenance Plan for the Forsyth County Carbon Monoxide Nonattainment Area adopted on April 14, 1994.

(ii) Other material. None.

## PART 81—[AMENDED]

### Subpart C—Section 107 Attainment Status Designations

1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

2. In § 81.334 the table for "North Carolina-Carbon Monoxide" is amended by revising the entry for the Winston-Salem/Forsyth County area to read as follows:

**§ 81.334 North Carolina.**

* * * * *

NORTH CAROLINA—CARBON MONOXIDE

| Designated area | Designation | | Classification | |
|---|---|---|---|---|
| | Date[1] | Type | Date[1] | Type |
| * * * * * * * | | | | |
| Winston-Salem Area<br>Forsyth County ..... | November 7, 1994 | | | |
| * * * * * * * | | | | |

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 94–23294 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH31–2–6361; FRL–5066–9]

## Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving maintenance plans and redesignation of Morgan and Washington Counties, Ohio, from nonattainment to attainment for sulfur dioxide ($SO_2$), and is deferring action on the maintenance plans and redesignation request for Gallia and Coshocton Counties. This action for Morgan and Washington Counties is based on Ohio's request, and provides that the new source review requirements for nonattainment areas will no longer apply for $SO_2$ in these two counties.

EFFECTIVE DATE: This final rule is effective on October 21, 1994.

ADDRESSES: Copies of the maintenance plan and redesignation request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone John Summerhays at (312) 886–6067 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays at (312) 886–6067.

SUPPLEMENTARY INFORMATION:

### I. Summary of Proposed Rulemaking

A subsequent submittal provided stack test data for one of the relevant facilities. On March 18, 1994, at 59 FR 12886, USEPA proposed to approve maintenance plans and redesignation of Morgan and Washington Counties, Ohio, from nonattainment to attainment for sulfur dioxide ($SO_2$). In that document, USEPA did not propose to take action on the maintenance plans and redesignation request for Gallia and Coshocton Counties. The notice of proposed rulemaking (NPR) included a background synopsis of the State's submittals and the applicable criteria, a full review of the State's submittals, and a summary of the proposed action. The NPR contained five subsections corresponding to the five criteria for redesignation from nonattainment to attainment given in section 107(d)(3)(E) of the Clean Air Act. In the NPR, USEPA made the following proposed findings: (i) All four counties are attaining the 24-hour air quality standard, Morgan and Washington Counties are attaining the 3-hour standard, and USEPA did not evaluate whether Coshocton and Gallia Counties are attaining the 3-hour standard; (ii) USEPA considered approval of the Morgan and Washington County plans under section 110(a)(2) to satisfy section 107(d)(3)(E)(ii) for these counties, but "based on questions as to whether (Federal Implementation Plans (FIPs)) satisfy the requirements of section 107(d)(3)(E)(ii)," USEPA deferred action on Ohio's request for Coshocton and Gallia Counties; (iii) USEPA judged all four counties to have permanent and enforceable emission reductions; (iv) USEPA judged the maintenance plans for Morgan and Washington Counties adequate, and did not evaluate the maintenance plans for Coshocton and Gallia Counties; and (v) USEPA judged that Ohio had satisfied the requirements of section 110 and part D of title I for Morgan and Washington Counties, and did not evaluate whether these requirements were satisfied for Coshocton and Gallia Counties. On the basis of this review, USEPA proposed to approve the maintenance plans and redesignation request for Morgan and Washington Counties and did not propose action for Coshocton and Gallia Counties.

### II. Public Comments/USEPA Responses

One letter commenting on the proposed rulemaking was received, submitted by the Ohio Environmental Protection Agency (OEPA). This letter included as an attachment a letter commenting on the same issues, sent from Ohio Governor Voinovich to Administrator Carol Browner prior to publication of the notice of proposed rulemaking. The comments in these letters and USEPA's responses follow:

*Comment:* Ohio supports the proposed action with respect to Morgan and Washington Counties.

*Response:* USEPA received no adverse comments on this part of its proposal, and, for the reasons provided in the proposal, concludes that the maintenance plans and redesignation request for these counties should be approved.

*Comment:* The State objects to USEPA's decision to defer action on the redesignation of Coshocton and Gallia Counties, and in particular presents arguments that areas subject to FIP limits (promulgated under section 110(c) of the Clean Air Act) rather than SIP limits (approved under section 110(k) or its equivalent) may be redesignated. Ohio argues that FIP limits are equivalent to SIP limits. The State cites language previously in section 110(d) (essentially moved to section 302(q) by the Clean Air Act Amendments of 1990) that the "implementation plan" includes both approved State submittals and federally promulgated measures. The State comments that if areas with FIPs could not be redesignated, then "U.S. EPA could never promulgate a FIP because such a plan would not provide for attainment redesignations and thus would be incomplete," and "nonattainment areas would be frozen, even though air quality may be demonstrably improved."

Also, the Governor commented that designations are based on air quality and that FIPs provide for permanent air quality improvement. The Governor concluded that Coshocton and Gallia Counties have been exhibiting attainment for 14 years, and that obstruction to the attainment status of these counties is based on a narrow interpretation of the Clean Air based on "periodic changes in review requirements," and is inappropriate and unnecessary.

*Response:* Section 107(d)(3)(E) of the Act, as amended in 1990, precludes USEPA from redesignating areas subject to FIPs, such as Coshocton and Gallia Counties to attainment. That section of the Act prohibits USEPA from redesignating a nonattainment area to attainment unless the area satisfies certain explicit statutory criteria. It provides that:

The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless—

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k);

(iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(v) The State containing such area has met all requirements applicable to the area under section 110 and part D.

As is evident, several criteria must be satisfied for an area to be redesignated to attainment apart from attaining the national ambient air quality standard and the determination that improvements in air quality are due to permanent and enforceable reductions in emissions. It is those criteria, especially that in clauses (ii), (iv) and (v), that are pertinent with respect to the issue of whether a nonattainment area may be redesignated to attainment if there is FIP, rather than a SIP, in place.

First, the language of clause (ii) requires that for USEPA to redesignate an area, USEPA must have "fully approved the applicable implementation plan for the area under section 110(k)." This clause clearly requires that a SIP be in place. Only SIPs are approved by USEPA; FIPs are not approved, but promulgated. More importantly, the clause refers to approval under section 110(k), the provision of the Act setting forth the procedure for USEPA to act on SIP revisions submitted to the Agency by states. Thus, a FIP does not qualify as a plan approved under section 110(k). In contrast, the language of section 302(q) defines the term "applicable attainment plan" as meaning a FIP or a SIP. Thus, it defines "applicable implementation plan" as "the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110 (a SIP, which is referred to in section 107(d)), or promulgated under section 110(c) (a FIP, which is not referred to in section 107(d)(3)(E)(ii))."

Second, clause (iv) requires that USEPA have fully approved a maintenance plan as meeting the requirements of section 175A. Section 175A(a) requires that each State that submits a redesignation request to submit "a revision of the applicable State implementation plan to provide for maintenance of the national primary ambient air quality standard," and thus clearly presupposes that a SIP, not a FIP, will be in place prior to redesignation.

Third, clause (v) requires that, in order to have an area redesignated to attainment, the State containing the area must meet "all requirements applicable to the area under section 110 and part D." As these requirements concern various SIP submissions, this clause also implicitly means that USEPA cannot approve a redesignation request for an area that is subject to a FIP.

Thus, the language of section 107(d)(3) plainly prohibits USEPA from redesignating an area to attainment if that area is subject to a FIP. This outcome is fully consistent with a fundamental policy underlying the law—that the states have primary responsibility for attaining and maintaining air quality standards and that FIPs are intended to be only short-term measures to fill gaps in control strategies. Further evidence of this policy is provided by the fact that sanctions imposed under section 179 due to a state's failure to comply with its SIP obligations are not suspended or lifted due to USEPA's promulgation of a FIP pursuant to its obligations under section 110(c).

USEPA also notes that areas subject to FIPs are not frozen in place as nonattainment areas. Assuming that the area continued to satisfy the national ambient air quality standards, the area would be eligible for redesignation to attainment once the state submitted approvable SIP revisions as required by the Act, and submitted an approvable state maintenance plan.

*Comment:* In another argument for redesignating areas with FIP-based plans, the State interprets section 110(n)(1), the "Savings Clause," as providing that "[t]he authority of USEPA to redesignate nonattainment areas under a section 110(c) plan would remain unchanged as a result of the 1990 Amendments." The State believes that former section 110(d) provided this authority prior to the 1990 amendments.

*Response:* Section 110(n)(1) authorizes the enforcement of plan elements approved prior to 1990. It does not authorize USEPA to ignore post-1990 Clean Air Act criteria in judging the acceptability of States' requests. The requirement now in section 107(d)(3)(E)(ii) requiring a plan approved under section 110(k) was not included in the pre-1990 Clean Air Act or in USEPA's guidance. However, this requirement is applicable now under the Act.

*Comment:* The Governor commented that "[a]reas with FIPs have been redesignated in Ohio in the past," indicating that USEPA agreed that FIPs provide for permanent air quality improvement, and indicating further that Gallia and Coshocton Counties should be redesignated.

*Response:* Regardless of the situation prior to the enactment of the Clean Air Act Amendments of 1990, the requirements of section 107(d)(3)(E) are applicable under the Act now, and must be satisfied as a prerequisite for redesignating an area from nonattainment to attainment.

*Comment:* The State comments that USEPA should not use 1.95 as the conversion factor from coal sulfur content to sulfur dioxide emissions, but should instead use the factor of 1.9 given in Supplement F of AP–42 (dated July 1993).

*Response:* USEPA agrees with the State's comment. Since the fuel quality information indicated the air quality standards being met using a 1.95 conversion factor, the fuel quality information also indicates the air quality standards being met using a 1.9 conversion factor.

### III. Rulemaking Action

USEPA has reviewed the State's submittals and other related material and, for the reasons stated in the proposal, has concluded that the maintenance plan and redesignation request for Morgan and Washington Counties satisfy the applicable criteria for approval. Consequently, USEPA approves the maintenance plan for $SO_2$ for Morgan and Washington Counties, and redesignates these two counties to attainment. USEPA continues to defer action with respect to Ohio's maintenance plans and redesignation requests for Coshocton and Gallia Counties.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action under the processing procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. 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 22291 for a period of 2 years. The USEPA 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 USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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 November 21, 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**

*40 CFR Part 52*

Air pollution control, Intergovernmental relations, Sulfur oxides.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

Dated: August 25, 1994.

**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 52.1881 is amended by adding paragraph (a)(12) to read as follows:

**§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).**

(a) * * *

(12) In a letter dated June 25, 1992, Ohio submitted a maintenance plan for sulfur dioxide in Morgan and Washington Counties.

* * * * *

## PART 81—[AMENDED]

1. The authority citation of part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

2. In § 81.336 the "Ohio-$SO_2$" table is amended by revising the entries for "Morgan County" and "Washington County" to read as follows:

**§ 81.336 Ohio.**

* * * * *

OHIO—$SO_2$

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|---|---|---|---|---|
| * * * * | * | * | * | * |
| Morgan County | | | | X |
| * * * * | * | * | * | * |
| Washington County | | | | X |
| * * * * | * | * | * | * |

* * * * *

[FR Doc. 94–23109 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

## 40 CFR Part 81

**[PA46–1–6631; FRL–5075–7]**

## Designation of Areas for Air Quality Planning Purposes; State of Pennsylvania; Correction

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

**ACTION:** Final rule; amendment.

**SUMMARY:** On December 21, 1993 (58 FR 67334), EPA took final action to redesignate areas as nonattainment for the PM–10 (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) and sulfur dioxide ($SO_2$) national ambient air quality standards (NAAQS). This notice corrects the entry for "Warren County" in the section 107 attainment designations table for "Pennsylvania—$SO_2$" displayed at 58 FR 67345. "Mead Twp" shall be classified as "Cannot be classified" only and not "Does not meet secondary standards". "Clarendon Boro" shall be classified as "Cannot be classified". "Warren Boro" shall be classified as "Does not meet secondary standards" in addition to the classification of "Does not meet primary standards". The remainder of the "Warren County" entry is complete and accurate.

**EFFECTIVE DATE:** January 20, 1994.

**ADDRESSES:** Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** David J. Campbell, Air & Radiation Programs Branch (3AT11), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: (215) 597–9781.

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 29, 1994.

**Stanley Laskowski,**

*Acting Regional Administrator, Region III.*

40 CFR part 81 is amended as follows:

## PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

### Subpart C—Section 107 Attainment Status Designations

2. In § 81.339 the table for "Pennsylvania—$SO_2$" is amended by revising the entry for "Warren County" to read as follows:

**§ 81.339. Pennsylvania.**

* * * * *

PENNSYLVANIA—$SO_2$

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|---|---|---|---|---|
| * * * * * * * | | | | |
| VI. Northwest Pennsylvania Intrastate AQCR: | | | | |
| (A) Warren County: | | | | |
| Conewango Twp | X | | | |
| Mead Twp | ..... | ..... | X | |
| Clarendon Boro | ..... | ..... | X | |
| Warren Boro | X | X | | |
| Pleasant Twp | X | X | | |
| Glade Twp | X | X | | |
| * * * * * * * | | | | |

* * * * *

[FR Doc. 94–23352 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 7084

[CO–932–4210–06; COC–046748]

### Partial Revocation of Public Land Order No. 2632; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a public land order insofar as it affects 78.79 acres of public land withdrawn for the Bureau of Reclamation Savery-Pot Hook Project. The land is no longer needed for reclamation purposes, and this revocation is necessary to enable the disposal of the land through exchange.

**EFFECTIVE DATE:** September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 2632, which withdrew public land for the Bureau of Reclamation Savery-Pot Hook Project, is hereby revoked insofar as it affects the following described land:

**Sixth Principal Meridian**

T. 12 N., R. 89 W.,
Sec. 30, lots 13 and 20.

The area described contains 78.79 acres in Moffat County.

2. At 9:00 a.m. on September 21, 1994 the land described in paragraph 1 of this order will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, the April 24, 1994, segregation of record, and the requirements of applicable law.

3. If the exchange proposed on April 25, 1994, is not consummated, the land will open to the operation of the public land and mineral laws at 9:00 a.m on April 25, 1999, through expiration of the land exchange segregation, or sooner if published in the **Federal Register**.

Dated: September 9, 1994.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

[FR Doc. 94–23284 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–JB–P

### 43 CFR Public Land Order 7085

[ID–943–4070–02; IDI–04790–01]

### Public Land Order No. 7049, Correction; Partial Revocation of Public Land Order No. 1703; Idaho

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order will add a flowage easement estate reservation on 1.40 acres which was omitted in Public Land Order No. 7049.

**EFFECTIVE DATE:** September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

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:

A flowage easement is hereby added to Public Land Order No. 7049, 59 FR 25338–25339, May 16, 1994. Accordingly, Public Land Order No. 7049 is hereby corrected by adding at the end of the publication on page 25339, first column, line 8, the following:

3. A flowage easement estate will be reserved for the Department of the Army, Corps of Engineers on the following lands:

**Boise Meridian**

T. 56 N., R. 4 W.,
Sec. 34, Those portions of lots 3 and 4 lying southerly of the Burlington Northern Railroad right-of-way (formerly the Great Northern Railway).

The area described contains 1.40 acres in Bonner County.

Dated: September 9, 1994.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

[FR Doc. 94–23285 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–GG–P

### Fish and Wildlife Service

### 50 CFR Part 17

### Endangered and Threatened Wildlife and Plants; 90-Day Finding on Petition To Add the Flatwoods Salamander to the List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of recision of previous 90-day petition finding for the flatwoods salamander, and issuance of a new finding.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) rescinds the previous 90-day finding made on a petition to list the flatwoods salamander (*Ambystoma cingulatum*) as an endangered or threatened species pursuant to the Endangered Species Act (Act) of 1973,

as amended. The previous finding, made on May 6, 1993, indicated that the petition did not present substantial information that the petitioned action may be warranted. The current finding, based upon recent changes to the Service's draft internal guidance for petition management, is that the petition presents substantial information that the requested action may be warranted. A formal review of the species' status is initiated pursuant to the current 90-day finding.

**DATES:** The finding announced in this document was made on September 16, 1994. To be considered in the 12-month finding for this petition, information and comments should be submitted to the Service by November 21, 1994.

**ADDRESSES:** Comments and information concerning this petition should be sent to the U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. The petition, finding and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda LaClaire at the above address.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 4(b)(3)(A) of the Act, as amended, requires that the Service make a finding on whether a petition to list, delist or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition and promptly published in the **Federal Register**. The Service must also commence a timely status review of the petitioned species if its accompanying information results in a positive finding. Following a positive 90-day finding, Section 4(b)(3)(B) of the Act requires the Service to make a 12-month finding as to whether the petitioned action is: (1) Not warranted, (2) warranted; or (3) warranted but precluded by other listing activity.

On May 18, 1992, the Service received a petition from the Biodiversity Legal Foundation and Ms. Elizabeth Carlton to list the flatwoods salamander as endangered or threatened and to designate critical habitat. The petition states that available evidence indicates the population of the flatwoods salamander has declined precipitously, that it is on the threshold of extirpation in many locations, that it has been extirpated from a large portion of its historic range, and that it has suffered rapid decline in National Forests. After a review of all available information, the Service made a 90-day petition finding on May 6, 1993, that the petition did not present substantial information that the petitioned action may be warranted; the finding was announced in the **Federal Register** of May 12, 1993 (58 FR 27986). The primary basis for the finding was that the petitioners did not present any information not already in possession of the Service, and a status review of the species was already in progress through the inclusion of the species as a category 2 candidate in the Service's comprehensive notice of review for animal candidates. Category 2 candidates are taxa for which information in the possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support proposed rules.

On August 12, 1993, the Biodiversity Legal Foundation and Elizabeth Carlton notified the Service of intent to file a lawsuit challenging the 90-day finding, and on April 25, 1994, suit was filed. In response to the agreed settlement, and based upon the Service's current draft guidance relating to petitions for listing category 2 candidate species, the 90-day finding made on May 6, 1993, is rescinded, and it is replaced by a finding indicating that the petitioners have presented substantial information that the requested action may be warranted. The Endangered Species Act does not indicate that designation of critical habitat is a petitionable action, but the Service will consider such designation in the event that the flatwoods salamander is proposed for listing. A status review of the flatwoods salamander is currently in progress in connection with the Service's notice of review for animal candidates. Additionally, the Service hereby announces its formal review of the species' status pursuant to this 90-day petition finding. Public comments regarding population trends, biological vulnerability and threats to this species should be sent to the office specified in the **ADDRESSES** section.

## Author

The primary author of this document is Ms. Linda LaClair (see **ADDRESSES** section).

## Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531–1544).

Dated: September 16, 1994.

**Mollie H. Beattie,**

*Director, Fish and Wildlife Service.*

[FR Doc. 94–23476 Filed 9–19–94; 1:42 pm]

BILLING CODE 4310–55–M

# Proposed Rules

Federal Register
Vol. 59, No. 182
Wednesday, September 21, 1994

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 TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 94–NM–127–AD]**

### Airworthiness Directives; de Havilland Model DHC–8–100 and –300 Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes. This proposal would require an inspection to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), and correction of any discrepancy. This proposal also would require measurement of the electrical resistance of certain shield grounds, and repair, if necessary. This proposal is prompted by a report of an engine flameout after a lightning strike, due to several shields for the cable harness of the EEC not being properly grounded to the airframe. The actions specified by the proposed AD are intended to prevent engine flameout due to insufficient protection of the EEC.

**DATES:** Comments must be received by October 31, 1994.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate ANM–103, Attention: Rules Docket No. 94–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** Richard Fiesel, Aerospace Engineer, Propulsion Branch, ANE–174, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–7421; fax (516) 791–9024.

**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 94–NM–127–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. 94–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

#### Discussion

On April 25, 1989, the FAA issued AD 85–14–51 R2, amendment 39–6207 (54 FR 19875, May 9, 1989), which is applicable to certain de Havilland Model DHC–8–100 series airplanes. That AD requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to prohibit takeoff, landing, and climb in the vicinity of lightning or thunderstorms; and to require continuous ignition operation during takeoffs, takeoff climb to 1500 feet above ground level, final approach, and landing within 5 nautical miles of lightning and thunderstorms. That AD also requires the installation of four modifications designed to protect the electronic engine control (EEC) from the effects of lightning strike, which, when accomplished, terminates the requirements of that AD and allows for the removal of the AFM limitations.

Since issuance of that AD, Transport Canada Aviation, which is the airworthiness authority for Canada, has advised the FAA of a report of an engine flameout after a lightning strike on a Model DHC–8 series airplane. Modifications required by AD 85–14–51 R2 had been accomplished on that airplane. Investigation revealed that the engine flameout occurred because several shields for the cable harness of the EEC were not properly grounded to the airframe. This condition, if not corrected, could result in insufficient protection of the EEC and may lead to an engine flameout following a lightning strike.

Bombardier has issued Service Bulletins S.B. 8–73–18 (for Model DHC–8–100 series airplanes) and S.B. 8–73–19 (for Model DHC–8–300 series airplanes), both dated April 29, 1994, which describe procedures for a visual inspection to verify the integrity of the shield grounds for the cable harness of the EEC, and correction of any discrepancy. The service bulletins also describe procedures for measurement of the electrical resistance of certain shield grounds, and repair, if necessary. The repair procedures consist of ensuring that the metal overbraid (which provides lightning protection for the EEC cable harness) is electrically

bonded to the connector and the electrical receptacles are electrically bonded to the airframe. Transport Canada Aviation classified these service bulletins as mandatory and issued Canadian Airworthiness Directive CF–94–09, dated May 5, 1994, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a visual inspection to verify the integrity of the shield grounds for the cable harness of the EEC, and correction of any discrepancy. This AD also would require measurement of the electrical resistance of certain shield grounds, and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 141 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 16 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 $124,080, or $880 per airplane.

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 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:

**De Havilland, Inc.:** 94–NM–127–AD.

Applicability: Model DHC–8–102, –103, and –106 series airplanes, serial numbers 3 through 369 inclusive; and Model DHC–8–301, –311, and –314 series airplanes, serial numbers 100 through 370 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine flameout following a lightning strike, accomplish the following:

(a) Within 45 days after the effective date of this AD, perform a visual inspection of the mounting clamps and "breakout junctions" in the metal overbraid to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), in accordance with de Havilland Service Bulletin S.B. 8–73–18 (for Model DHC–8–100 series airplanes), or S.B. 8–73–19 (for Model DHC–8–300 series airplanes), both dated April 29, 1994, as applicable. If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with the applicable service bulletin.

(b) Within 45 days after the effective date of this AD, perform an electrical resistance measurement of Class A and Class B shield grounds in accordance with de Havilland Service Bulletin S.B. 8–73–18 (for Model DHC–8–100 series airplanes), or S.B. 8–73–19 (for Model DHC–8–300 series airplanes), both dated April 29, 1994, as applicable.

(1) For Class A shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 50 flight hours after performing the resistance measurement repair in accordance with the applicable service bulletin.

(2) For Class B shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 180 days after performing the resistance measurement repair in accordance with the applicable service bulletin.

(c) For Model DHC–8–102, –103, and –106 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 93 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8–73–18, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph 161 of the Accomplishment Instructions of that service bulletin.

(d) For Model DHC–8–301, –311, and –314 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 112 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8–73–19, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph 200 of the Accomplishment Instructions of that service bulletin.

(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, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

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

Issued in Renton, Washington, on September 15, 1994.

**Donald L. Riggin,**

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

[FR Doc. 94–23327 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA37–10–6383; FRL–5076–4]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** EPA is proposing to approve a revision to the California State Implementation Plan (SIP) for ozone. The revision concerns the control of oxides of nitrogen ($NO_x$) from industrial boilers, steam generators, and process heaters in Santa Barbara County. The rule limits $NO_x$ and carbon monoxide emissions from these sources. The intended effect of proposing approval of this rule is to regulate emissions of $NO_x$ in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking will incorporate this rule into the federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

**DATES:** Comments on this proposed action must be received in writing on or before October 21, 1994.

**ADDRESSES:** Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revision 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:

Stationary Source Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Santa Barbara County Air Pollution Control District, Rule Development Section, 26 Castilian Drive B–23, Goleta, CA 93117

**FOR FURTHER INFORMATION CONTACT:** Wendy Colombo, Stationary Source Rulemaking, (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 Telephone: (415) 744–1202

**SUPPLEMENTARY INFORMATION:**

#### Background

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

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of $NO_x$ ("major" as defined in sections 302 and 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. Santa Barbara County is classified as a moderate nonattainment area for ozone;[1] therefore the Santa Barbara County area is subject to the RACT requirements of section 182(b)(2), cited above.

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

This document addresses EPA's proposed action for Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 342, Control of $NO_x$ from Boilers, Steam Generators, and Process Heaters. The rule was adopted by the SBCAPCD on March 10, 1992 and submitted by the State of California on June 19, 1992. Submitted Rule 342 was found to be complete on August 27, 1992 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[2] and is being proposed for approval into the SIP.

$NO_x$ emissions contribute to the production of ground level ozone and smog. Rule 342 controls emissions of $NO_x$ and carbon monoxide from commercial and industrial boilers, steam generators, and process heaters which are used in a wide variety of applications providing steam, heat, and hot water for industrial, institutional, and commercial operations. Rule 342 was adopted as part of SBCAPCD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for Rule 342.

#### EPA Evaluation and Proposed Action

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

For the purposes of assisting state and local agencies in developing $NO_x$ RACT rules, EPA prepared the $NO_x$ Supplement to the General Preamble, cited above (57 FR 55620). In the $NO_x$ Supplement, EPA provides guidance on how RACT will be determined for stationary sources of $NO_x$ emissions. While most of the guidance issued by

[1] Santa Barbara County was designated nonattainment and 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).

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

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

EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of $NO_x$ (see section 4.5 of the $NO_x$ Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs) that identify alternative controls for all categories of stationary sources of $NO_x$. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of $NO_x$. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of $NO_x$. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted $NO_x$ RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

Rule 342 applies to all boilers, steam generators, and process heaters with rated heat inputs greater than or equal to 5 million British Thermal Units per hour (MMBtu/hr) used in industrial, institutional, and commercial operations. The rule limits $NO_x$ emissions from units with rated heat inputs greater than or equal to 5 MMBtu/hr and with annual heat input greater than or equal to 9 billion Btu to 30 parts per million (ppm) or 0.036 pound per million BTU (lb/MMBtu) when operated on gas. For the same size units with annual heat inputs of the same level, which are operated on nongaseous fuel, the rule limits $NO_x$ emissions to 40ppm or 0.052 lb/MMBtu of heat input. The same size units operating with annual heat inputs of less than 9 billion Btu are required to maintain stack-gas oxygen concentrations at less than 3 percent or perform annual tune-ups. Final compliance with these limits is required by March 10, 1996.

The RACT limits specified in the California Air Resources Board's (CARB's) reasonably available control technology/best available retrofit control technology (RACT/BARCT) determination for these types of units are 70 ppm (0.084 lb/MMBtu) and 115 ppm (0.150 lb/MMBtu) for units fired with gas and nongaseous fuels while those for BARCT are 30 ppm and 40 ppm, respectively. Although Rule 342's BARCT limits (30ppm/40ppm) are more stringent than what EPA would consider as RACT (70ppm/115ppm) for these sources, the additional reductions obtained beyond those attributable to RACT are assumed necessary for SBCAPCD's attainment planning purposes.

In evaluating the rule, EPA must also determine whether the CAA requirement for RACT implementation by May 31, 1995 is met. The rule was written such that final compliance is not required until 4 years after the date of adoption. Since the rule was adopted in March 1992, final compliance is not required until March 1996. Under certain circumstances, the determination of what constitutes RACT could include consideration of advanced control technologies, i.e., California's requirement for BARCT. In these cases, the CAA's May 1995 date for RACT implementation may be satisfied in BARCT rules that establish "interim RACT" by May 1995, and require emission limitations based on advanced control technologies (BARCT) be met after May 1995. Rule 342 requires that interim control measures be met to ensure progress toward final compliance. The interim control measures include applying for a permit to operate and authority to construct and the development and submission of a compliance plan. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 342, dated May 1994.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations and EPA policy. Therefore, SBCAPCD Rule 342, Control of $NO_x$ from Boilers, Steam Generators, and Process Heaters is 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 economic 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 affected small entities. 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).

The OMB has exempted this action from E.O. 12866 review.

### List of Subjects in 40 CFR Part 52

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

**Authority:** 42 U.S.C. 7401–7671q.

Dated: September 8, 1994.

**John Wise,**

*Acting Regional Administrator.*

[FR Doc. 94–23351 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–F

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## 40 CFR Part 52

**[CT–11–1–5813; ME–11–1–6313; RI–10–1–6319; VT–6–1–6312; A–1–FRL–5076–5]**

## Clean Air Act Approval and Promulgation of Emission Statement Implementation Plans for Connecticut, Maine, Rhode Island, and Vermont

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is proposing full approval of revisions to the respective State Implementation Plans (SIPs) for the following four States: Connecticut, Maine, Rhode Island, and Vermont. Revisions to the SIP were submitted by each of these four States to implement an emission statement program for stationary sources throughout the State. Connecticut submitted section 22a–174–4(c)(1), "Recordkeeping and Reporting," and amendments to the SIP narrative entitled "Revision to State Implementation Plan for Air Quality Emission Statements" on January 12, 1993. On January 3, 1994, Maine

submitted Chapter 137, "Emission Statements" and amendments to Chapter 100, "Definitions." Rhode Island submitted amendments to Regulation Number 14 entitled "Record Keeping and Reporting" on January 12, 1993. On August 9, 1993, Vermont submitted a rule entitled "Registration of Air Contaminant Sources," Sections 5–801 through 5–806, and a SIP Narrative, "State of Vermont Air Quality Implementation Plan, February 1993." These SIP revisions were submitted by the States to satisfy the Federal requirements for an emission statement program as part of the SIP.

**COMMENTS:** Public comments are solicited on the requested SIP revisions and on US EPA's proposal to approve.

**DATES:** Comments received in writing by October 21, 1994, will be considered in the development of US EPA's final rulemaking action.

**ADDRESSES:** Comments should be mailed to Linda M. Murphy, Director, Air, Pesticides, and Toxics Management Division, JFK Federal Building, Boston, MA 02203. Copies of the States' submittals and other information are available for inspection during normal business hours, by appointment, at the following location: Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA 02203. In addition, Connecticut's submittal is available at the Bureau of Air Management, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106; Maine's submittal is available the Bureau of Air Quality Control, Department of Environmental Protection, State House, Station 17, Augusta, ME 04333; Rhode Island's submittal is available at the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767; and Vermont's submittal is available at the Air Pollution Control Division, Agency of Natural Resources, Department of Environmental Management, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

**FOR FURTHER INFORMATION CONTACT:** Daria L. Dilaj, U.S. Environmental Protection Agency, Region I, JFK Federal Building (APS), Boston, MA 02203; Phone: (617) 565–3249.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (CAA or "the Act"). EPA has published 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 CAA, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ("SIP: General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990"), 57 FR 18070 (April 28, 1992) ("Appendices to the General Preamble"), and 57 FR 55620 (November 25, 1992) ("SIP: $NO_X$ Supplement to the General Preamble")).

EPA has also issued a draft guidance document describing the requirements for the emission statement programs discussed in this Notice, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify part 40 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable in subsections (b), (c), (d), and (e) to all other classified ozone nonattainment areas. Among the requirements in section 182(a) is a program in paragraph (3) of that subsection for stationary sources to prepare and submit to the State each year emission statements showing actual emissions of volatile organic compounds and nitrogen oxides. This paragraph provides that the States are to submit a revision to their State Implementation Plans (SIPs) by November 15, 1992 establishing this emission statement program.

Section 184(b)(2) of the Act extends the requirements for major stationary sources in moderate ozone nonattainment areas to sources in the ozone transport region which emit, or have the potential to emit, 50 tpy or more of VOC. Section 182(f) extends the requirements for major stationary sources of VOC in ozone transport regions to major sources of $NO_X$. For areas designated as attainment or nonattainment areas which are not classified, section 182(f) refers to section 302 where the major source definition for $NO_X$ is the potential to emit 100 tons per year. Therefore, the emission statement requirement includes sources in attainment areas and nonattainment areas which are not classified within ozone transport regions which emit, or have the potential to emit 100 tpy or more of $NO_X$ or 50 tpy or more of VOC.

Connecticut, Rhode Island, Vermont, and Maine are each located in the ozone transport region. The applicability of these States' emission statement regulations must be State-wide, and cover all stationary sources which emit or have the potential to emit 50 tpy of VOC or 100 tpy of $NO_X$. In addition, Connecticut, Rhode Island, and the following counties of Maine: Androscoggin, Cumberland, Hancock, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York are classified ozone nonattainment areas and are therefore subject to the more stringent source threshold requirement of section 182(a)(3)(B). For these classified ozone nonattainment areas, the source threshold of these States' emission statement regulations must cover all sources which emit VOC or $NO_X$.

For classified ozone nonattainment areas, the States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide $NO_X$ or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA. Connecticut, Maine, and Rhode Island have provided 1990 baseyear inventories which include emissions from sources that emit below 25 tpy of VOC or $NO_X$ emissions and will be updating these inventories every three years until the area is redesignated to attainment. In addition, the methods and emission factors used by Connecticut, Maine, and Rhode Island to calculate emissions for the 1990 baseyear inventory have been reviewed by EPA. As a result, EPA finds the 25 tpy threshold acceptable.

Additionally, if either VOC or $NO_X$ is emitted at or above the statutory reporting level, the other pollutant must be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

The CAA requires that States' rules specify that facilities must submit the first emission statement to the State within three years after November 15, 1990, and annually thereafter. EPA requests that the States submit the emission data to EPA through the Aerometric Information Retrieval System (AIRS). The minimum emission statement data should include: certification of data accuracy; source identification information; operating schedule; emissions information

(including annual and typical ozone season day emissions); control equipment information; and process data. EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

## II. Analysis of State Submission

### *A. Procedural Background*

The Act requires States to observe certain procedural requirements in developing its SIP, of which the emission statement program will become a part. Section 110(l)(2) of the Act provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. EPA must at the outset determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991).

Connecticut held public hearings on the proposed changes to the SIP narrative on January 5, 6, and 7, 1993. Following the public hearing, Connecticut submitted the SIP revision to EPA on January 12, 1993. The SIP revision was reviewed by EPA and deemed complete on March 16, 1993. The State of Maine held a public hearing on Chapter 137 and amendments to Chapter 100 on July 14, 1993. Following the public hearing, the regulations were adopted by the State on November 10, 1993 and submitted to EPA on January 3, 1994. EPA deemed the submittal complete on February 16, 1994. Rhode Island held a public hearing on Regulation 14, "Record Keeping and Reporting" on December 16, 1992. The regulation was adopted by the State on January 11, 1993. EPA received the submittal on January 12, 1993 and deemed the SIP revision complete in a March 9, 1993 letter. The State of Vermont held a public hearing on the proposed changes to the SIP narrative on March 10, 1993. Vermont submitted the SIP narrative and regulations 5–801 through 5–806 to EPA on August 10, 1993. On October 25, 1993, EPA deemed the submittal complete.

EPA proposes to approve the emission statement program SIP submittals of Connecticut, Maine, Rhode Island and Vermont and invites public comment on the action.

### *B. Components of the Emission Statement Program*

There are several key general and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting by the sources and the State. In general, the program must include, at a minimum, provisions for applicability, definitions, compliance, and specific source requirements detailed below.

#### 1. SIP Revision Submission

EPA requires States to submit their SIP revision within 2 years of enactment of the Clean Air Act Amendments of 1990 (CAAA) (November 15, 1990).

Connecticut and Rhode Island submitted their SIP revisions on January 12, 1993. Maine and Vermont were each notified in a letter dated January 15, 1993 that a finding of failure to submit a SIP for Emission Statements was made. Vermont submitted its SIP revision on August 9, 1993, and Maine submitted its SIP revision on January 3, 1994. EPA reviewed these two submittals and, as outlined above, found them complete. Therefore, the sanctions clock was stopped for this plan element for each of these states. However, the January 15, 1993 finding also triggered the Federal Implementation Plan (FIP) clock. EPA remains obligated to promulgate a FIP until a final rulemaking action to approve these two SIP revisions is taken.

#### 2. Reporting Requirements for State

In addition to the program elements applying to sources, the SIP should include a provision that States provide to EPA the identifying information for the sources covered by the emission statement program, the value for rule effectiveness utilized by the State in its SIP calculations, the source data elements entered into AIRS, and quarterly emission statement status reports. The minimum source identification information should include the AIRS code, the AFS point number (ID), the AFS segment number (ID), and the Source Category Code (SCC) and descriptions for each segment.

In addition, States should supply to EPA the current rule effectiveness (RE) factors at the SCC pollutant level, if applicable, and the RE method codes. The emission statement data submittal to AIRS should include all data obtained from the source and the State. These source-supplied data elements include source identification information (name, physical location, mailing address of the facility, latitude and longitude, and 4-digit Standard Industrial Classification (SIC) code(s)), operating schedule information (percentage annual throughput, days per week on the normal operating schedule, hours per day during the normal operating schedule, and hours per year on the normal operating schedule), process rate data (annual process rate (annual throughput) and peak ozone season daily process rate), control equipment information (current primary and secondary control equipment identification codes and current combined control equipment efficiency (%)), and emissions information (estimated actual VOC and $NO_X$ emissions at the segment level (in tons per year for an annual emission rate and pounds per day for a typical ozone season day), estimated emissions method code, calendar year for the emissions, and emission factor (if used)). EPA recommends that the States electronically submit emission statement data into the AIRS database no later than July 1 of each year, commencing in 1993. The quarterly reports should show the total number of facilities that met the State's emission statements program requirements and the number of facilities that failed to meet the requirements. Quarterly reports should be submitted commencing no later than July 1, 1993.

Connecticut commits to submitting data along with supplemental data to EPA by July 1. All the EPA required data elements will be covered. EPA will negotiate with Connecticut to include a requirement for quarterly emission statement reports in future 105 grants.

Maine covers all the EPA required data elements. Maine has not committed to a data submittal date to EPA. Maine will not meet the present July 1 deadline of submitting data to EPA. Maine will, however, have plenty of time to meet the deadline of November 15 being proposed by the Emission Statement Workgroup. EPA will negotiate with Maine to include a requirement for quarterly emission statement reports in future 105 grants.

Rhode Island's rule has covered all the EPA required data elements. Rhode Island has not committed to submitting emission statement data to EPA by July 1. EPA will negotiate with Rhode Island to include a requirement for quarterly emission statement reports in future 105 grants.

Vermont has committed to report all the necessary data elements to EPA by July 1 of each calendar year. Vermont

states in its SIP narrative that for any emissions estimates which depend on rule enforcement for control of potential emissions, rule effectiveness will also be included in the submittal to EPA. EPA will negotiate with Vermont to include a requirement for quarterly emission statement reports in future 105 grants.

3. Sources Covered

Section 182(a)(3)(B) requires that States with areas designated as nonattainment for ozone require emission statement data from all sources of VOC or $NO_X$ in the nonattainment areas. This requirement applies to all classified ozone nonattainment areas, regardless of the classification (Marginal, Moderate, etc.). Section 184(b)(2) of the Act extends the requirements for major stationary sources in moderate ozone nonattainment areas to sources in the ozone transport region. Section 182(f) extends the requirements for major stationary sources of VOC in ozone transport regions to major sources of $NO_X$. Therefore, the emission statement requirement encompasses all stationary sources in all classified nonattainment areas, as well as sources in attainment areas and unclassified nonattainment areas within ozone transport regions, which emit or have the potential to emit 100 tpy or more of $NO_X$ or 50 tpy or more of VOC.

The States may waive, with EPA approval, the requirement for emission statements for classes or categories of sources with less than 25 tons per year of actual plant-wide $NO_X$ or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories. Connecticut, Maine, and Rhode Island emission statement regulations have exempted sources with VOC and $NO_X$ emissions below 25 tpy from emission statement requirements. Connecticut, Maine, and Rhode Island have provided 1990 baseyear inventories which include emissions from sources that emit below 25 tpy of VOC or $NO_X$ emissions and will be updating these inventories every three years until the area is redesignated to attainment. In addition, the methods and emission factors used by Connecticut, Maine, and Rhode Island to calculate emissions for the 1990 baseyear inventory have been reviewed by EPA. As a result, EPA finds the 25 tpy threshold acceptable.

The entire state of Connecticut is designated as nonattainment for ozone and is located within the boundaries of the ozone transport region. Connecticut's SIP narrative describes how for the first reporting year (1993), Connecticut will require an emission statement from each company whose actual 'calendar year 1992 emissions from all sources at a plant site total 25 tons per year or more of VOC, $NO_X$, or CO. For the second reporting year (1994), the state will lower the reporting threshold to 5 tons per year or more of VOC, $NO_X$, or CO. For the third (1995) and future reporting years, the state will expand the reporting requirement to 5 tons per year or more of any criteria pollutant (PM10, $SO_X$, $NO_X$, CO, VOC, Pb). If the 25 tpy (first year) or 5 tpy (later years) threshold is exceeded by any one pollutant, the company is required to supply data for all remaining pollutants addressed by the respective threshold criteria.

The entire state of Maine is located within the boundaries of the ozone transport region. In addition, the following counties of Maine: Androscoggin, Cumberland, Hancock, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York are classified ozone nonattainment areas and are therefore subject to the more stringent source threshold requirement of section 182(a)(3)(B). For these classified ozone nonattainment areas, EPA requires Maine's emission statement regulations to cover all sources which emit VOC or $NO_X$ unless the State waives requirements from sources with less than 25 tons per year of actual plant-wide $NO_X$ or VOC emissions. Maine's Chapter 137 is applicable to all stationary sources which emit, or have the potential to emit into the ambient air, the following air pollutants at or above the minimum required reporting level:

1. Carbon Monoxide, 100 tpy
2. Sulfur Dioxide, 40 tpy
3. Volatile organic compounds, 25 tpy
4. Nitrogen oxides, 25 tpy
5. Fine Particulate Matter, 15 tpy
6. Lead, 0.1 tpy

In addition, this rule requires the reporting of 189 hazardous air pollutants identified by the CAA and other compounds known to be emitted in Maine that are of concern to human health. The list of pollutants can be found in Section 1(C) and Appendix A of Chapter 137. If any one pollutant as specified above is emitted at or above the minimum required reporting level, all the other pollutant data listed must be collected and reported.

The entire state of Rhode Island is designated as nonattainment for ozone and is located within the boundaries of the ozone transport region. Section 14.3.1 states that the owner or operator of any facility emitting VOC or $NO_X$ which has or has had actual facility-wide emissions of 25 tons per year or more of either pollutant in 1990 or any year thereafter, shall submit annually an emission statement which includes both pollutants in accordance with the requirements of section 14.3.2. A facility may apply to the Division to be allowed to discontinue submitting annual emission statements if actual emissions at that facility decrease to below 10 tons per year as a result of a permanent process change.

Although the entire state of Vermont is in attainment it is located within the ozone transport boundaries. EPA requires Vermont to regulate source which emit, or have the potential to emit 100 tpy or more of $NO_X$ or 50 tpy or more of VOC. Regulation 5–802 requires submittal of complete data from all sources of the five criteria pollutants which have actually emitted more than 5 tons of all of the criteria pollutants combined during the previous year.

4. Reporting Requirements for Sources

Sources covered by the State emission statement program will submit, at a minimum, the data elements described under section II.B.2. of this document.

The emission statement submitted by the source should contain a certification that the information is accurate to the best knowledge of the individual certifying the statement. EPA recommends that the State program require the submission of the data from the sources no later than April 15 of each year.

Connecticut has required, in its SIP narrative, that sources submit their emission statement data no later than April 15 of each year. The emission statement forms sent out by DEP require all data elements described under section II.B.2. of this document. Along with the forms, a letter is sent which informs the source that accuracy of the data must be certified.

Maine's Chapter 137 requires the owner or operator of any facility meeting the applicability requirements in section 1 of chapter 137 to submit an emission statement to the Department on an annual basis. The emission statement must be submitted no later than July 1 for the previous calendar year, beginning no later than July 1, 1994 for the calendar year 1993. EPA is proposing to approve this submittal date since the Emission Statement Workgroup is proposing to require States to submit emission statement data to AIRS by November 15 rather than July 1. Maine will have sufficient time to submit data to AIRS by November 15 if sources submit emission statements by July 1. Chapter 137 also includes a list of data elements required by the

sources and the demand for certification of the data's accuracy.

Rhode Island's section 14.3.1 requires facilities to submit emission statements to the Director within 45 days of the end of the calendar year. Emission statements shall be submitted for the calendar year 1992 and for every year thereafter. Rhode Island requires each facility subject to section 14.3.1 to submit an emission statement in a format approved by the Director which contains all data elements described above and certification that the information contained in the emission statement is accurate.

Vermont's rule, section 5–803, requires sources to submit to the Air Pollution Control Officer source emissions data and other information on or before February 1 of each year. Certification of the data is required.

5. Reporting Forms

Although EPA has developed a proposed format for the emission statement reporting process in its guidance document, the Act allows States to develop their own format for emission statement reporting.

Connecticut, Maine, and Vermont provide the sources with emission statement forms. Connecticut and Vermont included the forms with their SIP submittals. Rhode Island does not provide sources with an emission statement form; each facility subject to emission statement requirements must submit an emission statement in a format approved by the Director.

## III. Proposed Action

EPA has evaluated the States submittals for consistency with the Clean Air Act, EPA regulations, and EPA policy. EPA has determined that the proposed rules meet the Clean Air Act's requirements and is proposing approval of the following rules under section 110(k)(3): Connecticut's section 22a–174–4(c)(1), "Recordkeeping and Reporting;" Rhode Island's regulation Number 14 entitled "Record Keeping and Reporting;" Vermont's rule entitled "Registration of Air Contaminant Sources," Sections 5–801 through 5–806; Maine's Chapter 137, "Emission Statements" and amendments to Chapter 100, "Definitions;" and the SIP narrative revisions of Connecticut entitled "Revision to State Implementation Plan for Air Quality Emission Statements," and Vermont entitled "State of Vermont Air Quality Implementation Plan, February 1993." Based upon EPA's evaluation of Connecticut's and Rhode Island's January 12, 1993 submittals, Vermont's August 9, 1993 submittal, and Maine's January 3, 1994 submittal, EPA is proposing to approve the emission statement submissions as revisions to the ozone SIP.

## IV. Request for Public Comments

Public comments are solicited on the requested SIP revisions and on EPA's proposal to approve. Public comments received by October 21, 1994, will be considered in the development of EPA's final rulemaking action.

## V. Administrative Requirements

*A. Executive Order (EO) 12866*

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 3 SIP revisions, 54 FR 2222, from the requirements of section 3 of Executive Order 12291 for a period of 2 years. US EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on US EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

*B. Regulatory Flexibility*

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 economic 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 Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on small entities. 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: September 12, 1994.

**John P. DeVillars,**

*Regional Administrator, Region I.*

[FR Doc. 94–23350 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

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## 40 CFR Parts 52 and 81

**[NC66–1–6567b; FRL–5071–6]**

## Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of North Carolina

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of North Carolina for the purpose of redesignating Forsyth County area to attainment for carbon monoxide (CO). In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** To be considered, comments must be received by October 21, 1994.

**ADDRESSES:** Written comments should be sent to Ben Franco, EPA Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, Georgia 30365. Copies of the redesignation request and the State of North Carolina's submittal are available for public review during normal business hours at the addresses listed below. EPA's technical support

document (TSD) is available for public review during normal business hours at the EPA addresses listed below.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, Georgia, 30365.

Department of Environment, Health and Natural Resources, P.O. Box 29535, Raleigh, North Carolina, 27626–0535.

**FOR FURTHER INFORMATION CONTACT:** Ben Franco of the EPA Region IV Air Programs Branch at (404) 347–3555, ext. 4211, and at the above address.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: September 2, 1994.

**Joe R. Franzmathes,**

*Acting Regional Administrator.*

[FR Doc. 94–23295 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

## 40 CFR Parts 52 and 81

**[OH06–2–6229B, OH01–2–6230B, OH32–2–6231B; FRL–5073–6]**

## Approval of Maintenance Plan and Designation of Areas for Air Quality Planning Purposes; Ohio

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule.

**SUMMARY:** The USEPA proposes to approve the ozone State Implementation Plan (SIP) revision and redesignation requests submitted by the State of Ohio for the purpose of redesignating Preble, Columbiana, and Jefferson Counties to attainment for ozone. In the Final Rules Section of this **Federal Register**, USEPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The USEPA will not institute a second comment period on this document.

**DATES:** Comments on this proposed rule must be received on or before October 21, 1994.

**ADDRESSES:** Written comments should be mailed to: William MacDowell, Chief, Regulatory Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** William Jones, Environmental Engineer, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6058.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: September 8, 1994.

**Valdas V. Adamkus,**

*Regional Administrator.*

[FR Doc. 94–23297 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

## 40 CFR Part 158

**[OPP–00391; FRL–4912–4]**

## FIFRA Scientific Advisory Panel; Open Meeting

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

**ACTION:** Notice of open meeting.

**SUMMARY:** There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with a draft proposal rule for 40 CFR part 158, Pesticide Registration Data Requirements. Much of this proposed rule would implement changes in practice already made by the Office of Pesticide Programs in the course of registration and reregistration.

**DATES:** The meeting will be held on Tuesday and Wednesday, November 29 and 30, 1994 from 8:30 a.m. to 4:30 p.m.

**ADDRESSES:** The meeting will be held at: Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202, (703) 486–1111.

**FOR FURTHER INFORMATION CONTACT:** By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (7509C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 815B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305–5369/7351. Copies of documents may be obtained by contacting: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1128 Bay, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5434.

**SUPPLEMENTARY INFORMATION:** The agenda for the meeting will follow the general organization of part 158, specifically addressing the changes and additions. The proposed changes to part 158 reflect increasing emphasis on health and environmental concerns from the use of pesticides in the areas of exposure to workers and handlers, neurotoxicity, ground water contamination, and ecological effects. They also reflect concerns about pesticide exposure to infants and children. These revisions would ensure that comprehensive data packages are supplied to EPA so that each pesticide can be evaluated using current health and environmental standards.

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the phone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advance notice to the Designated Federal Official, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit 20 copies of a summary no later than November 4, 1994, to the Public Docket and Freedom

of Information Section, Field Operations Division (7506C), at the Virginia address given above, in order to ensure appropriate consideration by the Panel.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Room 1128 Bay at the address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel.

Copies of the Panel's report of their recommendations will be available 10 to 15 working days after the meeting and may be obtained by contacting the Public Docket and Freedom of Information Section at the address or telephone number given above.

Dated: September 14, 1994.

**Daniel M. Barolo,**

*Director, Office of Pesticide Programs.*

[FR Doc. 94–23355 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–F

# Notices

Federal Register
Vol. 59, No. 182
Wednesday, September 21, 1994

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.

## BIPARTISAN COMMISSION ON ENTITLEMENT AND TAX REFORM

### Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the Bipartisan Commission on Entitlement and Tax Reform will hold a meeting on October 6, 1994, at 1:00 p.m. in the Cannon House Office Building, Room 210, Washington, D.C., unless otherwise changed.

The meeting of the Commission shall be open to the public. The proposed agenda includes discussion of issues relating to the Commission's charter, including but not limited to, options for controlling the spiraling growth on entitlement expenditures and the need to examine the structure of the current federal income tax system. It is expected that various interest groups will present testimony to Commission members regarding these issues.

Records shall be kept of all Commission proceedings and shall be available for public inspection in Room 825 of the Hart Senate Office Building, 120 Constitution Avenue, N.E., Washington, D.C. 20510.

**J. Robert Kerrey,**

*Chairman.*

**John C. Danforth,**

*Vice-Chairman.*

[FR Doc. 94–23360 Filed 9–20–94; 8:45 am]

BILLING CODE 4151–04–M

## DEPARTMENT OF COMMERCE

### Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of Export Administration.

*Title:* Semiconductor Infrastructure Assessment.

*Agency Form Number:* None assigned.

*OMB Approval Number:* None.

*Type of Request:* New Collection.

*Burden:* 300 hours.

*Number of Respondents:* 100.

*Avg Hours Per Response:* 3 hours.

*Needs and Uses:* Commerce is conducting an assessment of key suppliers to the U.S. semiconductor industry to identify weaknesses in the supply base which could inhibit this critical industry's ability to meet commercial and defense production requirements as defined by the industry's 15 year business plan. The information will be used to institute remedial action where weaknesses are found to exist.

*Affected Public:* Businesses or other for–profit institutions.

*Frequency:* One time.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Don Arbuckle, (202) 395–7340.

*Agency:* International Trade Administration.

*Title:* Commercial News USA.

*Agency Form Number:* ITA–4063P.

*OMB Approval Number:* 0625–0061.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 917 hours.

*Number of Respondents:* 2,200.

*Avg Hours Per Response:* 25 minutes.

*Needs and Uses:* As part of its export promotion activities, ITA publishes COMMERCIAL NEWS USA. The purpose of the publication is to promote new American products and technology to overseas buyers. Firms wishing to participate must submit an application. The information is used to determine if the product meets the program's criteria.

*Affected Public:* Businesses or other for–profit institutions, small businesses or organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Don Arbuckle, (202) 395–7340.

*Agency:* International Trade Administration.

*Title:* Foreign Trade Zone Application.

*Agency Form Number:* None.

*Type of Request:* Extension of the expiration date of a currently approved collection.

*Burden:* 8,470 hours.

*Number of Respondents:* 90.

*Avg Hours Per Response:* Varies but ranges between 19 and 128 hours.

*Needs and Uses:* The Foreign Trade Zone Act requires that a one–time application be made for authority to establish a foreign–trade zone project. The information on the facility, financing, operational plans, proposed manufacturing, and economic needs is used in making a decision on whether or not to approve the request.

*Affected Public:* State or local governments, businesses or other for–profit institutions, small businesses or organizations, non–profit institutions.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: September 15, 1994

**Gerald Tache,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 94–23319 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–CW–F

## Bureau of Export Administration

### Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held October 13, 1994, 9 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street & Pennsylvania Avenue, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

**General Session**

1. Opening remarks by the Chairman

2. Introduction of members and visitors
3. Presentation of public papers or comments
4. Discussion of recent revisions to the Export Administration Regulations (EAR)
5. Discussion of BXA reorganization

**Executive Session**

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information or copies of the minutes call (202) 482–2583.

Dated: September 15, 1994.

**Lee Ann Carpenter,**

*Director, Technical Advisory Committee Unit.*

[FR Doc. 94–23320 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DT–M

## International Trade Administration

**[A–570–001]**

## Potassium Permanganate From the People's Republic of China; Termination of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Termination of Antidumping Duty Administrative Review.

**SUMMARY:** On August 15, 1994, the Department of Commerce (the Department) received a request from Carus Chemical Company (Carus), the petitioner, that it be permitted to withdraw its request for an administrative review, pursuant to 19 CFR 353.22(a)(5) (1994), of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC) for the period January 1, 1993, through December 31, 1993. Although the Department received the request to withdraw after the normal period allowed, the Department is terminating this administrative review in accordance with 19 CFR 353.22(a)(5).

**EFFECTIVE DATE:** September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone number (202) 482–4474.

### Background

On January 31, 1984, the Department published in the **Federal Register** (49 FR 3898) the antidumping duty order on potassium permanganate from the PRC. After receiving a timely request for review from Carus, the Department initiated, on February 17, 1994, an administrative review for the period January 1, 1993, through December 31, 1993 (59 FR 7979). On August 15, 1994, Carus requested that it be permitted to withdraw its request for review for this period of review.

**SUPPLEMENTARY INFORMATION:** In accordance with 19 CFR 353.22(a)(5), the Department may extend the normal 90-day time limit for withdrawal of a request for review if the Department determines it is reasonable to do so. We have determined that it is reasonable to extend the time limit for Carus' request because we have not yet issued questionnaires for this period and because there is no indication on the record that the substantive rights of any party would be impaired by such a decision.

Respondent Zunyi Chemical Factory (Zunyi) and an importer, Novachem, Inc. (Novachem), have objected to the termination request on the grounds that (1) Zunyi intended to submit adequate information in the current review in order to avoid the application of best information available as was done in the 1990 review, the final results of which were published on May 23, 1994 (59 FR 26625), and (2) petitioner's request for termination of this review was untimely.

Regardless of its stated intent to supply adequate information in the current review, Zunyi should have been aware that because the 1993 review was based solely on the petitioner's request, that request could be withdrawn pursuant to 19 CFR 353.22(a)(5).

Because we have extended the 90-day time period for requesting withdrawal, we hereby grant Carus' request for withdrawal.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: September 9, 1994.

**Roland L. MacDonald,**

*Acting Deputy Assistant Secretary for Compliance.*

[FR Doc. 94–23365 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DS–M

## Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

*Docket Number:* 93–141R. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* Current Limiting Interrupting Device *Manufacturer:* Calor-Emag AG, Germany. *Intended Use:* Original notice

of this resubmitted application was published in the **Federal Register** of December 13, 1993.

*Docket Number:* 94–095. *Applicant:* Lamont-Doherty Earth Observatory of Columbia University, Route 9W, Palisades, NY 10964. *Instrument:* High Temperature Resistivity Logging Tool. *Manufacturer:* CSM Associates Limited, United Kingdom. *Intended Use:* The instrument will be used on board a U.S. drill ship to study sedimentary formations in the sediments below the ocean floor in areas of extremely high crustal temperatures. The tool will be lowered into the borehole to make a series of measurements and the data will be transmitted up a conducting cable to surface computers. The data will then be analyzed and used to produce scientific papers on the sedimentary and rock formations. *Application Accepted by Commissioner of Customs:* July 21, 1994.

*Docket Number:* 94–096. *Applicant:* Southern Methodist University, 3225 Daniel Avenue, Dallas, TX 75275-0395. *Instrument:* IR Mass Spectrometer System, Model MAT 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used in the analysis of whole rocks, minerals, and fluids in order to determine their isotope ratios for oxygen, carbon, and hydrogen (and to a lessor extent nitrogen) with specific interest in the stable (non-radioactive) isotopes of these elements. The major objectives of the research are to understand the evolution of the Earth's lithosphere and its fluid envelope. In addition, the instrument will be used for educational purposes in various geology courses. *Application Accepted by Commissioner of Customs:* July 22, 1994.

**Pamela Woods**

*Acting Director, Statutory Import Programs Staff*

[FR Doc. 94–23366 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DS–F

## National Oceanic and Atmospheric Administration

**[I.D. 091594C]**

## Pacific Fishery Management Council; Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Halibut Advisory Subpanel will hold a public meeting on October 13–14, 1994, at the Council office, 2130 SW. Fifth Avenue, Suite 224, Portland, OR.

The meeting will begin on October 13, at 1:00 p.m., and on October 14, at 8:00 a.m. The meeting will continue until business for each day is completed and may go into the evening.

The purpose of the meeting will be to develop final recommendations on the proposed halibut allocation options for Area 2A in 1995, and beyond, for the Council to consider at its October 24–28, 1994, meeting in Millbrae, CA.

**FOR FURTHER INFORMATION CONTACT:** Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW. Fifth Avenue, Suite 224, Portland, OR 97201; telephone: (503) 326–6352.

**SUPPLEMENTARY INFORMATION:** This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Michelle Perry Sailer at (503) 326–6352, at least 5 days prior to the meeting date.

Dated: September 16, 1994.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 94–23371 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–22–F

**[I.D. 091594B]**

## North Pacific Fishery Management Council; Committee Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will hold a meeting on September 28, 1994, in the Northwest Ballroom, Red Lion Hotel, 18740 Pacific Highway South, Seattle, WA. The meeting will begin at 9:00 a.m.

The Agenda will include the following topics:

1. Delay of the moratorium approved by the North Pacific Fishery Management Council,
2. Delay of the Bering Sea bairdi season to January 15,
3. Bycatches of king and bairdi crabs in the Bristol Bay area, and
4. Report on the status of Bering Sea crab stocks.

**FOR FURTHER INFORMATION CONTACT:** Gary Loncon, PNCIAC Chairman, (206) 283–6605.

**SUPPLEMENTARY INFORMATION:** This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Judy Willoughby, (907) 271–2809, 5 days prior to the meeting date.

Dated: September 16, 1994.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 94–23370 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–22–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

September 14, 1994.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 22, 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) 927–5850. 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 current limits for certain categories are being adjusted, variously, for swing and unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 4039, published on January 28, 1994.

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.

**Rita D. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 14, 1994.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1994 and extends through January 31, 1995.

Effective on September 22, 1994, you are directed to amend the directive dated January 24, 1994 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of Bangladesh:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| 334 | 106,357 dozen. |
| 338/339 | 897,725 dozen. |
| 340/640 | 2,269,047 dozen. |
| 342/642 | 276,623 dozen. |
| 634 | 377,275 dozen. |
| 638/639 | 1,186,123 dozen. |
| 641 | 830,612 dozen. |
| 647/648 | 838,046 dozen. |
| 847 | 567,789 dozen. |

[1] The limits have not been adjusted to account for any imports exported after January 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 94–23315 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DR–F

## Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan; Correction

September 14, 1994.

In the table in the letter to the Commissioner of Customs published in the **Federal Register** on August 3, 1994 (59 FR 39547), correct the adjusted 1994 level for Categories 338/339 from 875,561 dozen to 875,831 dozen.

**Rita D. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 94–23317 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DR–F

## Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

September 14, 1994.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs establishing a limit.

**EFFECTIVE DATE:** September 22, 1994.

**FOR FURTHER INFORMATION CONTACT:** Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

**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).

Inasmuch as consultations have not resulted in a mutually satisfactory solution on Categories 342/642, the United States Government has decided to control imports in these categories for the prorated period beginning on July 28, 1994 and extending through December 31, 1994 at a level of 66,266 dozen.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in further consultations with the Government of Pakistan, further notice will be published in the **Federal Register**.

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). Also see 59 FR 26212, published on May 19, 1994; and 59 FR 5756, published on February 8, 1994.

**Rita D. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 14, 1994.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 1, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on September 22, 1994, you are directed to establish a limit for cotton and man-made fiber textile products in Categories 342/642 for the period beginning on July 28, 1994 and extending through December 31, 1994 at a level of 66,266 dozen [1]. Textile products in Category 342 which are exported on and after July 28, 1994 are not subject to the group limit.

For the import period April 29, 1994 through May 19, 1994, you are directed to charge 200 dozen for Category 642 to the limit established in the directive dated May 13, 1994 for Categories 342/642 for the period beginning on April 29, 1994 and extending through July 27, 1994.

Imports charged to the limit for Categories 342/642 for the April 29, 1994 through July 27, 1994 period shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

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 this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 94–23316 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after July 27, 1994.

## Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Arab Emirates

September 14, 1994.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs increasing limits.

**EFFECTIVE DATE:** September 22, 1994.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Tallarico, 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 current limits for certain categories are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 2827, published on January 19, 1994.

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.

**Rita D. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 14, 1994.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 14, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during various periods, including March 1, 1993 through December 31, 1994 (Categories 226/313), October 28, 1993 through December 31, 1994 (Category 326) and January 1, 1994 through December 31, 1994.

Effective on September 22, 1994, you are directed to amend the directive dated January 14, 1994 to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the United Arab Emirates:

| Category | Adjusted level [1] |
|---|---|
| 226/313 | 3,096,378 square meters. |
| 326 | 1,873,150 square meters. |
| 334/634 | 200,734 dozen. |
| 351/651 | 153,896 dozen. |
| 647/648 | 287,719 dozen. |

[1] The limits have not been adjusted to account for any imports exported after February 28, 1993 (Categories 226/313), October 27, 1993 (Category 326) and December 31, 1993.

For the import period March 1, 1993 through January 18, 1994, there are zero charges for Category 226. For the import period October 28, 1993 through January 18, 1994, there are zero charges for Category 835. (See January 14, 1994 directive.)

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 94–23318 Filed 9–20–94; 8:45 am]

BILLING CODE 3510–DR–F

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed North Expansion of Kennecott Copper's Tailings Impoundment in Salt Lake County, UT; Correction

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

**ACTION:** Notice of Intent; Correction.

**SUMMARY:** A Notice of Intent (NOI) to Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed North Expansion of Kennecott Copper's Tailings Impoundment in Salt Lake County, Utah was published in the **FEDERAL RESISTER** on Friday, August 19, 1994. The NOI incorrectly listed the date of the Scoping Meeting. On page 42823, third column, second paragraph of the NOI the date was incorrectly stated as "Wednesday, September 19, 1994". The date should read "Monday, September 19, 1994".

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Schwinn, Project Manager, U.S. Army Corps of Engineers, Sacramento District, Utah Field Office, 1403 South 600 West, Suite A, Bountiful, Utah 84010, Telephone (801) 295–8380.

Dated: September 8, 1994.

**Michael P. Schwinn,**

*Project Manager.*

[FR Doc. 94–23030 Filed 9–20–94; 8:45 am]

BILLING CODE 3710–EH–M

## DEPARTMENT OF ENERGY

### Notice of a Class Deviation To Waive Federal Register Notices of Financial Assistance Awards To Help Meet Special Power and Propulsion Needs for Future Space Missions

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of class deviation from 10 CFR 600.14(f).

**SUMMARY:** Pursuant to 10 CFR 600.4, *Deviations*, the Department of Energy has authorized a class deviation from 10 CFR 14(f) which requires a **Federal Register** Notice of each financial assistance award. This deviation applies exclusively to applications received in response to a Notice of Program Interest (NOPI) entitled Invitation for Proposals Designed to Support Federal Agencies and Commercial Interests in Meeting Special Power and Propulsion Needs for Future Space Missions (58 FR 63931, December 3, 1993) which was published by the Department of Energy. Applications submitted in response to the NOPI were accepted through January 31, 1994.

The intent of publishing notification of financial assistance awards is to foster competition and provide information regarding subcontracting opportunities. However, a Notice of Program Opportunity has already served as notice to interested applicants, and no subcontracting opportunities have been identified. Additionally, due to programmatic requirements, it is important that awards be made as soon as possible. Therefore, the Department of Energy has determined, pursuant to 10 CFR 600.4, that a deviation from the requirement to publish a **Federal Register** Notice of each such award is (1) Necessary to achieve program objectives, (2) necessary to conserve public funds.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Office of Placement and Administration, Attn:

Mr. Nick Graham, HR–531.23, 1000 Independence Ave., SW., Washington, DC 20585.

Issued in Washington, DC, on September 8, 1992.

Linda Strand,

*Chief, Branch B–3, Office of Placement and Administration.*

[FR Doc. 94–23359 Filed 9–20–94; 8:45 am]

BILLING CODE 6450–01–M

## Office of Energy Efficiency and Renewable Energy

[Case No. F–074]

## Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to the Trane Company

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–074) granting a Waiver to The Trane Company (Trane) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Trane Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its YCC, YCX, and DCX convertible package units.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9138

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9507

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Trane has been granted a Waiver for its YCC, YCX, and DCX convertible package units, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on September 12, 1994.

Christine A. Ervin,

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

In the Matter of: The Trane Company (Case No. F–074)

### Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Trane filed a "Petition for Waiver," dated June 9, 1994, in accordance with § 430.27 of 10 CFR part 430. The Department published in the **Federal Register** on July 29, 1994, Trane's petition and solicited comments, data and information respecting the petition. 59 FR 38591. Trane also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on July 25, 1994. 59 FR 38591, July 29, 1994.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Rheem Petition. The FTC did not have any objections to the issuance of the waiver to Trane.

### Assertions and Determinations

Trane's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Trane requests the allowance to test using a 45-second blower time delay when testing its YCC, YCX, and DCX convertible package units. Trane states that since the 45-second delay is indicative of how these models actually operate and since such a delay results in an average of 0.3 percent improvement in energy efficiency, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Trane indicates that it is unable to take advantage of any of these exceptions for its YCC, YCX, and DCX convertible package units.

Since the blower controls incorporated on the Trane furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 45-second blower

time delay when testing the Trane YCC, YCX, and DCX convertible package units. Accordingly, with regard to testing the YCC, YCX, and DCX convertible package units, today's Decision and Order exempts Trane from the existing provisions regarding blower controls and allows testing with the 45-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by The Trane Company (Case No. F–074) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR part 430, subpart B, The Trane Company, shall be permitted to test its YCC, YCX, and DCX convertible package units on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t–), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t–), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, The Trane Company shall comply in all respects with the test procedures specified in Appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the YCC, YCX, and DCX convertible package units manufactured by The Trane Company.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective September 7, 1994, this Waiver supersedes the Interim Waiver granted The Trane Company on July 25, 1994. 59 FR 38591, July 29, 1994 (Case No. F–074).

Issued In Washington, DC, on September 7, 1994.

**Christine A. Ervin,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 94–23358 Filed 9–20–94; 8:45 am]

BILLING CODE 6450–01–P

## Advisory Committee on the Demonstration and Commercial Application of Renewable Energy and Energy Efficiency, Open Meeting

Under the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), notice is hereby given of the following meeting:

*Name:* Advisory Committee on the Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies.

*Date and Time:* October 6, 1994, 9 a.m.–5 p.m

*Place:* The Renaissance Hotel, 999 9th Street, N.W., Washington, DC 20001

*Contact:* Elaine Guthrie, Office of Technical Assistance (EE–542), Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585, Telephone 202/586–1719.

*Purpose of Committee:* To advise the Secretary of Energy on the development of the solicitation and evaluation criteria for commercialization ventures, and on otherwise carrying out her responsibilities under the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. 101–218, 42 U.S.C. 12005), as amended by the Energy Policy Act of 1992 (Pub. L. 102–486, 42 U.S.C. 13201).

*Tentative Agenda:* Briefings and discussions of:

- Review of subcommittee work;
- FY 1995 Congressional Appropriations;
- Committee Work Plan;
- Other Matters Requiring Committee Consideration;
- Public Comment Period (10 minute rule).

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Elaine Guthrie at the address or telephone number listed above. Requests to make oral presentations must be received 5 days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Minutes:* The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room 1E–190, Forrestal, Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on September 16, 1994.

**Marcia L. Morris,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 94–23357 Filed 9–20–94; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulatory Commission

**[Docket No. EL94–93–000, et al.]**

## American Municipal Power-Ohio, Inc. v. Cleveland Electric Illuminating Company, et al., Electric Rate and Corporate Regulation Filings

September 14, 1994.

Take notice that the following filings have been made with the Commission:

### 1. American Municipal Power-Ohio, Inc. v. Cleveland Electric Illuminating Company

[Docket No. EL94–93–000]

Take notice that on September 1, 1994, American Municipal Power-Ohio, Inc. (AMP-Ohio) tendered for filing a complaint against Cleveland Electric Illuminating Company (CEI). In its filing AMP-Ohio requests that this proceeding be divided into two phases and that Phase I be resolved by a summary order requiring CEI to provide certain data and operating procedures to AMP-Ohio. AMP-Ohio requests that Phase II be deferred until AMP-Ohio completes the transmission studies, based on the information provided by CEI in Phase I, and submits to the Commission a final

transmission network proposal, including any specific proposed interconnections to the CEI system.

*Comment date:* October 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

**2. Boston Edison Company**

[Docket No. ER94–1619–000]

Take notice that on September 2, 1994, Boston Edison Company (Edison) filed a letter agreement between itself and thirteen Massachusetts municipal electric systems further extending the deadline for the Municipals' submission of objections to Edison's 1992 bills for services rendered under each municipal system's Pilgrim power purchase contract in 1992. On August 11, 1994, Boston Edison filed a letter agreement in Docket No. ER94–1551–000 extending that deadline from August 15, 1994, until September 7, 1994. The new letter agreement extends that deadline from September 7, 1994, until September 19, 1994. The letter agreement makes no other changes to the rates, terms and conditions of the affected Pilgrim contracts.

Edison states that it has served copies of this filing upon each of the affected customers and upon the three other Pilgrim power purchasers; Reading Municipal Light Department, Montaup Electric Company and Commonwealth Electric Company, as well as the Massachusetts Department of Public Utilities.

*Comment date:* September 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

**3. The Washington Water Power Company**

[Docket No. ER94–1623–000]

Take notice that on September 6, 1994, The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.11 Service Agreements under WWP's FERC Electric Tariff Volume No. 4.

A copy of the filing was mailed to the parties of the new Service Agreements.

*Comment date:* September 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

**4. Midway-Sunset Cogeneration Company**

[Docket No. QF86–433–003]

On September 2, 1994, Midway-Sunset Cogeneration Company (Applicant) tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining primarily to the technical data and the ownership structure of the cogeneration facility.

*Comment date:* October 3, 1994, 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, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–23337 Filed 9–20–94; 8:45 am]

BILLING CODE 6717–01–P

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**[Project No. 1494–066 Oklahoma]**

## Grand River Dam Authority; Notice of Availability of Environmental Assessment

September 15, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for non-project use of project lands for the Pensacola Hydroelectric Project. The application proposes dredging 740 cubic yards of material from a site located at the Monkey Island area of Grand Lake O' The Cherokees, in Delaware County, Oklahoma. The staff prepared an Environmental Assessment (EA) for the action. In the EA, staff concludes that approval of the non-project use of project lands would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, Room 3308, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–23305 Filed 9–20–94; 8:45 am]

BILLING CODE 6717–01–M

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**[Project No. 6952–005 California]**

## McMillan Hydro, Inc.; Notice of Availability of Environmental Assessment

September 15, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed a non-capacity related amendment of exemption for the McMillan Hydroelectric Project, No. 6952–005. The McMillan Hydroelectric Project is located on the North Fork of Little Cow Creek in Shasta County, California. The application is to revise the project description to reflect several changes between the authorized and as-built project features. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–23306 Filed 9–20–94; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. TM94–4–34–001]**

## Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 15, 1994.

Take notice that on September 12, 1994 Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Seventh Revised Sheet No. 8A
Eighth Revised Sheet No. 8A
First Revised Sheet No. 199
Second Revised Sheet No. 200

On May 2, 1994, FGT filed in Docket No. TM94–4–34 to suspend its Annual Unit Take-Or-Pay Surcharge (TOP

Surcharge) effective June 1, 1994, subject to FGT making a supplemental filing to reflect actual balances pertaining to its collection of the take-or-pay buy-out and buy-down costs (Southern Fixed Charges) billed by Southern Natural Gas Company (Southern) to FGT and to make any related tariff changes required. Subsequently, on May 18, 1994, the Federal Energy Regulatory Commission (Commission) issued an order (May 18 Order) accepting FGT's filing subject to FGT's making the supplemental filing. In its order, the Commission directed that the supplemental filing should show the Southern Fixed Charge account balances and include tariff revisions required to balance any outstanding customer fixed charge account totals. FGT states the instant filing is being made in compliance with the May 18 Order.

FGT requests waiver of the provision of Section 25C of its GTC regarding the carrying charge calculation to permit FGT to waive carrying charges on amounts owed FGT between June 1, 1994 and November 1, 1994.

FGT also requests waiver of the provision of Section 25C of its GTC which requires that refunds be made within 90 days of the end of the Annual Recovery Period. FGT requests that it not be required to make refunds pending Commission approval of the instant filing. FGT proposes that any refunds due hereunder be made within thirty days of a final Commission Order accepting this filing with carrying charges on such refunds calculated through the refund date.

FGT requests that the Commission waive any other parts of its Regulations or provisions of FGT's tariff as may be required to allow the instant filing to become effective as proposed.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before September 22, 1994. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–23307 filed 9–20–94; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. EL94–92–000]**

## Portland General Electric Company; Corrected Notice of Filing[1]

September 15, 1994.

Take notice that on August 31, 1994, Portland General Electric Company (PGE) tendered for filing a Petition for a Declaratory Order and Motion for Summary Disposition. In this Petition PGE asks the Commission to declare that it has exclusive jurisdiction to determine whether Southern California Edison Company (Edison) may terminate its July 31, 1986 Long-Term Power Sale and Exchange Agreement (Agreement) with PGE and whether PGE should refund Edison any of the fees paid pursuant to the Agreement.

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 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 October 11, 1994. 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. 94–23308 Filed 9–20–94; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. SA94–3–000]**

## Western Gas Resources Storage, Inc.; Notice of Petition for Adjustment

September 15, 1994.

Take notice that on August 31, 1994, Western Gas Resources Storage, Inc. (WGRS) filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from § 284.123(b)(1)(ii) of the Commission's regulations to permit WGRS to use its tariff on file with the Railroad Commission of Texas (TRC) for services performed pursuant to NGPA section 311.

In support of its petition, WGRS states that it is an intrastate pipeline operating in the State of Texas, and is a gas utility subject to the jurisdiction of the TRC. WGRS owns and operates the Katy Gas Storage Facility, which consists of a storage cavern and associated pipeline facilities as well as a header system. WGRS's transportation and storage rates are subject to regulation by the TRC. The Commission previously granted WGRS' request to use rates on file with the TRC for interruptible transportation and storage.[1] WGRS anticipates providing section 311 firm storage and storage-related transportation service on behalf of interstate pipeline companies or local distribution companies served by interstate pipeline companies for a charge not to exceed the rates on file with the TRC, as follows:

*Firm Storage* (including related transportation):

Injection—$0.05 per MMBtu
Withdrawal—$0.05 per MMBtu
Deliverability—$0.9385 per MMBtu per month
Capacity—$0.0221 per MMBtu per month

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the **Federal Register**. The petition for adjustment is on file with the Commission and is available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–23309 Filed 9–20–94; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5077–1]**

## Clean Air Act Advisory Committee; Emergency Notice of Public Meeting

Under Section (10)(a)(2) of Title 5 U.S.C. App. 2, "The Federal Advisory Committee Act," notice is hereby given that the Subcommittee on Mobile Source Emissions and Air Quality in the Northeastern States of the Clean Air Act Advisory Committee will meet on Friday, September 30, 1994 beginning at 8:30 a.m. to 4 p.m. at the Grand Hyatt Hotel, 100 H Street, N.W., Washington, D.C. 202/582–1234. Because the Subcommittee met on September 13–14,

[1] This notice replaces the first five paragraphs of the notice issued on September 8, 1994, and changes the comment date form September 26, 1994, to October 11, 1994.

[1] Docket No. SA94–1–000, 66 FERC ¶ 62,063 (1994).

1994 and set September 30, 1994 as the next meeting date this emergency notice is hereby given. These meetings are open to the public. For further information concerning the meeting, please contact the individuals listed below.

**Mobile Source Emissions and Air Quality in the Northern States Subcommittee**

The Mobile Source Emissions and Air Quality in the Northeastern States Subcommittee of the Clean Air Act Advisory Committee will conduct a meeting to discuss the pending petition offered by the Ozone Transport Commission regarding the adoption of Low Emission Vehicle Emission Standards in the northeastern states and related issues. In addition, the meeting agenda will include progress reports from various work groups established at the previous meeting of the Subcommittee, discussion of a 49-state alternative and modeling analysis of the alternative.

Further Information and Providing Comments: For additional information concerning these meetings, please contact Mike Shields, Designated Federal Official, Office of Mobile Sources, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 260–7645.

Dated: September 15, 1994.

T W. Eagles,

*Acting Director, Office of Policy Analysis and Review, Office of Air and Radiation, U.S. Environmental Protection Agency.*

[FR Doc. 94–23466 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P–M

[FRL–5074–5]

## Massachusetts: Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Tentative Determination to Fully Approve the Adequacy of the Commonwealth of Massachusetts's Municipal Solid Waste Permitting Program, Extension of 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, 42 U.S.C. 6945(c)(1)(B), 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 hazardous waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C), 42 U.S.C. 6945(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 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 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 States/Tribes with approved permit programs can use the site-specific flexibilities provided by 40 CFR 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 shall apply to all permitted and unpermitted MSWLF facilities.

The Commonwealth of Massachusetts has applied for a determination of adequacy under Section 4005(c)(1)(C) of RCRA, 42 USC § 6945(c)(1)(C). EPA Region I has reviewed Massachusetts's MSWLF permit program adequacy application and has made a tentative determination that all portions of Massachusetts's MSWLF permit program are adequate to assure compliance with the revised MSWLF Criteria. The public comment period is being extended for 30 days in order to ensure that all interested parties have an opportunity to comment on the Massachusetts MSWLF permitting program. Massachusetts's application for program adequacy determination is available for public review and comment at the places listed in the **ADDRESSES** section below during regular office hours.

**DATES:** All comments on Massachusetts's application for a determination of adequacy must be received by the close of business on October 21, 1994.

**ADDRESSES:** Copies of Massachusetts's application for adequacy determination are available during the hours of 8:00 a.m. to 5:00 p.m. at the following addresses for inspection and copying: Massachusetts Department of Environmental Protection, Division of Solid Waste Management, One Winter Street, 4th Floor, Boston, MA 02108; U.S. EPA Region I, Waste Management Division, Solid Waste Section, 90 Canal Street, Boston, MA 02203, Attn: Fred Friedman, telephone (617) 573–9687. Written comments should be sent to Mr John F. Hackler, Chief, Solid Waste Section, mail code HER–CAN6, EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203–2211.

**FOR FURTHER INFORMATION CONTACT:** EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203, Attn: Ms. Connie Dewire, mail code HER–CAN6, telephone (617) 573–5719.

**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 40 CFR Part 258. Subtitle D also requires in Section 4005(c)(1)(C), 42 USC § 6945(c)(1)(C) 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 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 approve State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for states or tribes to develop "adequate" programs for permits, or other forms of prior approval and conditions (for example, license to operate) 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. Second, the State/Tribe must have the authority to issue a permit or other notice of prior approval and conditions 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, 42 USC § 6974(b). Finally, 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 STIR. 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.

**B. Commonwealth of Massachusetts**

On August 13, 1993, EPA Region I received Massachusetts's final MSWLF Permit Program application for adequacy determination. Region I reviewed the final application and submitted comments to Massachusetts. Massachusetts addressed EPA's comments and submitted a revised final application for adequacy determination on August 30, 1993. Region I received additional clarifying information on the Massachusetts MSWLF Permit Program on November 2, 1993 and March 23, 1994. Region I has reviewed Massachusetts's revised application and has tentatively determined that all portions of Massachusetts's MSWLF program meet all the requirements necessary to qualify for full program approval and ensures compliance with the revised Federal Criteria.

The public may submit written comments on EPA's tentative determination until October 21, 1994. Copies of Massachusetts's application are available for inspection and copying at the location indicated in the **ADDRESSES** section of this notice.

In the Commonwealth of Massachusetts, the jurisdiction for siting and permitting of solid waste management facilities lies with local boards of health and the Department of Environmental Protection (DEP), an agency falling under the Executive Office of Environmental Affairs (EOEA). The Department of Public Health (DPH) is also given an advisory role in the siting process. Authority for respective roles of the boards of health, DEP and DPH is granted by Chapter 111, section 150A of the Massachusetts General Laws. Region I based its decision of tentative full approval on the current approach for approving the construction and operation of MSWLFs in Massachusetts. This approach includes:

(1) a review pursuant to the Massachusetts Environmental Policy Act (MEPA), a public information process that generally involves the submission of an Environmental Impact Report, which must be approved by the Secretary of the Office of Environmental Affairs; (2) a Site Assignment Process, which focuses on determining whether a specific location is suitable for a specific type of solid waste facility (the local board of health is responsible for granting a site assignment in accordance with the procedures and criteria at 310 CMR 16.00); and (3) a Solid Waste Management Facility Permit, a permit that must be obtained from DEP's Division of Solid Waste Management after completing the MEPA process and obtaining a site assignment. The permitting process regulates the design, operation and maintenance, closure, post-closure and financial assurance aspects of a facility.

The Massachusetts regulations require, at 310 CMR 19.021, the repermitting of all landfills existing as of the effective date of July 1, 1990, unless they choose to close prior to July 1, 1992. Furthermore, the regulations at 310 CMR 19.022(1) require the completion of closure of all unlined areas of landfills by July 1, 1995. A recent amendment of MGL c. 111, s. 150A makes the 1995 closure date applicable only to privately owned landfills.

The design standard for new and lateral expansions of landfills currently in effect in Massachusetts includes a composite liner system which features: a subgrade layer which must ensure a minimum of four foot separation between the top of bedrock or the maximum high groundwater table and the bottom of the lowermost low permeability layer; a two foot, low permeability, soil/admixture layer having a maximum in-place saturated hydraulic conductivity of 1x10–7 cm/sec; a minimum 30-mil flexible membrane liner (60-mil minimum for high density polyethylene) in direct contact with the underlying soil/admixture; a drainage/protection layer; and a leachate collection system. Alternative liner designs must meet the performance standard for ground water protection systems found at 310 CMR 19.110 and do so in a manner which meets or exceeds the design standard of that section.

The current siting criteria carefully restrict new or expanding landfills from being located in settings that may conflict with the Location Criteria specified in 40 CFR Sections 258.10, 258.11, 258.12, 258.13, 258.14 and 258.16. By currently restricting landfills to such settings, Massachusetts has protected all state drinking water resources, whether surface water or groundwater, from the potential impact of leachate -an approach which EPA has determined to be an alternate to the 40 CFR Part 258 requirements, but still as protective as the federal requirements at 40 CFR Part 258. In addition, the Commonwealth's requirements are no less stringent than the requirements set forth at 40 CFR Part 258.

The Massachusetts MSWLF Permitting Program features an unique approach to landfill assessment which includes four parts. The first part is an Initial Site Assessment (ISA), which examines the general history of the site, the types and amounts of waste landfilled, the size of the site and other historical information concerning the site. The second part is a Comprehensive Site Assessment (CSA) to characterize the nature and extent of any contamination that may exist. The CSA, which is used to develop a suitable closure strategy, involves, in its final step, a two-phased risk assessment approach to determine whether corrective action is warranted. The first phase of the risk assessment is called a qualitative risk assessment. The following three pieces of information are analyzed in this phase: the existence of contamination above standards or approved levels; the existence of potential public health or environmental receptors; and the existence of pathways which would serve to link contamination to receptors. If all three are determined to exist in any media (air, surface water, ground water or soil), the second phase in the risk assessment process, the quantitative risk assessment, is invoked as is a round of sampling for all the 40 CFR Part 258, Appendix II constituents. The third part of the landfill assessment is a Corrective Actions Alternatives Analysis (CAAA), which is conducted to determine the type of cap and any additional remediation measures which will be needed to properly close the sanitary landfill. The fourth and final part of the landfill assessment process is a Corrective Action Design (CAD), in which the landfill cap and any additional remediation measures are designed.

Massachusetts covers the landfill assessment requirements in more detail in its *Guidance on Conducting Qualitative Risk Assessments at Solid Waste Landfills* and *Guidance for Disposal Site Risk Characterization and Related Phase II Activities*. The revised *Landfill Assessment and Closure*

*Guidance Manual* (LAC Manual) is applicable to all existing MSWLFs and to all MSWLF permit applications effective July 1, 1993. Massachusetts will implement its MSWLF permit program through enforceable permit conditions. To ensure compliance with the federal criteria, Massachusetts has revised its current permit requirements through the existing *Supplement to Landfill Assessment and Closure Manual*. These revisions occur in the following areas:

1. The adoption of the EPA approved method 8260 to test ground water.

2. Addition of the provision on the minimum distance of a ground water monitoring well from the landfill boundary.

3. Compliance with the protocols for testing and analyzing ground water for constituents listed in Appendix II to Part 258.

4. Compliance with the procedures for notifying the DEP about explosive levels of landfill gas.

5. Compliance with the protocols for conducting inspections to detect presence of hazardous waste and procedures for reporting results of such inspections.

6. Compliance with the minimum design standard for alternative landfill cover.

The Massachusetts Department of Environmental Protection will update the permits of existing municipal solid waste landfills scheduled to remain open after the effective date of 40 CFR Part 258, to assure compliance with current state requirements. The Commonwealth of Massachusetts is not asserting jurisdiction over Tribal land recognized by the United States government for the purpose of this notice. Tribes recognized by the United States government are also required to comply with the terms and conditions found at 40 CFR Part 258.

The Commonwealth of Massachusetts is committed to implementing its MSWLF program in accordance with the principles of environmental equity. The Commonwealth has expressed this commitment in an addendum to the narrative portion of its application.

EPA will consider all public comments on its tentative determination received during the public comment period. Issues raised by those comments may be the basis for a determination of inadequacy for Massachusetts's program. EPA will make a final decision on approval of the Commonwealth of Massachusetts's program and will give notice of the final determination in the **Federal Register**. The notice shall include a summary of the reasons for the final determination and a response to all significant comments.

Section 4005(a) of RCRA, 42 USC § 6945(a) provides that citizens may use the citizen suit provisions of Section 7002 of RCRA, 42 USC § 6972 to enforce the Federal MSWLF criteria set forth 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 USC § 605(b), I hereby certify that this 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 Sections 2002, 4005 and 4010(c) of the Solid Waste Disposal Act as amended, 42 USC §§ 6912, 6945 and 6949a(c–c).

Dated: September 8, 1994.

**John P. DeVillars,**

*Regional Administrator.*

[FR Doc. 94–23150 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–P

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**[OPP–50789; FRL–4778–2]**

## Issuance of Experimental Use Permits

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

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

**SUPPLEMENTARY INFORMATION:** EPA has issued the following experimental use permits:

*241–EUP–125.* Issuance. American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08543–0400. This experimental use permit allows the use of 266 pounds of the herbicide ammonium salt of (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid on 3,980 acres of peanuts to evaluate the control of various weeds. The program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from April 13, 1994 to April 13, 1996. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 241, CM #2, (703–305–6800))

*100–EUP–97.* Issuance. Ciba Plant Protection, P.O. Box 18300, Greensboro, NC 27419–8300. This experimental use permit allows the use of 5.7 pounds of the herbicide 1-(4-methoxy-6-methyl-triazin-2-yl)-3-[2-(3,3,3-trifluoropropyl)-phenylsulfonyl]-urea on 155 acres of corn to evaluate the control of various weeds. The program is authorized only in the States of Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, and Wisconsin. The experimental use permit is effective from March 31, 1994 to March 31, 1995. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 241, CM #2, (703–305–6800))

*62719–EUP–26.* Issuance. DowElanco, 9330 Zionsville Rd., Indianapolis, IN 46268–1054. This experimental use permit allows the use of 1,245.48 pounds of the herbicides N-(2,6-difluorophenyl)-5-methyl-1,2,4-triazole-[1,5a]-pyrimidine-2-sulfonamide and 3,6-dichloro-2-pyridinecarboxylic acid on 4,850 acres of field corn to evaluate the control of various broadleaf weeds. The program is authorized in the States of Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North

Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, and Wisconsin. The experimental use permit is effective from March 9, 1994 to March 9, 1996. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Joanne Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

*524–EUP–74.* Extension. Monsanto Agricultural Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. This experimental use permit allows the use of 75 pounds of the herbicide methyl 5-{[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl}-3-chloro-1-methyl-1-H-pyrazole-4-carboxylate on 600 acres of turf to evaluate the control of various broadleaf weeds. The program for turf is authorized only in the States of Alabama, Arkansas, Arizona, California, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The experimental use permit also allows the use of 252 pounds of the herbicide methyl 5-{[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl}-3-chloro-1-methyl-1-H-pyrazole-4-carboxylate on 4,000 acres of field corn to evaluate the control of various broadleaf weeds. The program for field corn is authorized only in the States of Alabama, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective for both programs from April 4, 1994 to April 1, 1995. A temporary tolerance for residues of the active ingredient in or on field corn has been established. (Joanne Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

*524–EUP–76.* Extension. Monsanto Agricultural Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. This experimental use permit allows the use of 336 pounds of the herbicide methyl 5-{[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl}-3-chloro-1-methyl-1-H-pyrazole-4-carboxylate on 4,000 acres of corn to evaluate the control of various broadleaf weeds. The program is authorized only in the States of Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, South Dakota, Virginia, and Wisconsin. The experimental use permit is effective from April 4, 1994 to April 1, 1995. A temporary tolerance for residues of the active ingredient in or on field corn has been established. (Joanne Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

*58998–EUP–8.* Amended/Extension. Novo Nordisk Bioindustrials, Inc., 33 Turner Rd., Danbury, CT 06813. This experimental use permit allows the use of 149.91 pounds of the microbial insecticide *Bacillus thuringiensis* subspecies *israelensis* on catch basins, clean water, curb gutters in residential areas, ditches, flood water, pastures, polluted waters, ponds, retention areas, rice fields, rivers, salt marshes, storm water, streams, and tidal waters. The program is authorized only in the States of Arkansas, California, Delaware, Florida, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, Pennsylvania, South Carolina, Tennessee, Utah, and Washington. The permit is effective from March 22, 1994 to February 1, 1995. (Phil Hutton, PM 18, Rm. 213, CM #2, (703–305–7690))

*10182–EUP–56.* Issuance. Zeneca Ag Products, 1800 Concord Pike, Wilmington, DE 19897. This experimental use permit allows the use of 900 pounds of the chemical hybridizing agent potassium 2-(4-chlorophenyl)-1-ethyl-1,4-dihydro-6-methyl-4-oxo-3-pyridinecarboxylate on 360 acres of corn to evaluate its effectiveness as a male sterilant in the production of hybrid seed corn. The program is authorized only in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, and Wisconsin. The experimental use permit is effective from March 15, 1994 to June 1, 1996. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Cynthia Giles-Parker, PM 22, Rm. 229, CM #2, (703–305–5540))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**Authority:** 7 U.S.C. 136.

**List of Subjects**

Environmental protection, Experimental use permits.

Dated: September 9, 1994.

**Stephen L. Johnson,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 94–23354 Filed 9–20–94; 8:45 am]
BILLING CODE 6560–50–F

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**[OPP–66200; FRL–4911–7]**

## Notice of Intent to Cancel Registration of Certain Products Containing the Active Ingredient Metam-Sodium

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

**ACTION:** Notice; Intent to Cancel Registrations.

**SUMMARY:** This Notice announces the Agency's intent to cancel the registrations of the pesticide products Vaporooter A Foaming Fumigant (EPA Reg. No. 9993-1), Foam Coat Vaporooter (EPA Reg. No. 9993-2), and Sanafoam Vaporooter II (EPA Reg. No. 9993-3). EPA has determined that continued sale, distribution, and use of the products would cause unreasonable adverse effects on the environment. EPA bases this determination on data and other information showing that products that contain metam-sodium (sodium methyldithiocarbamate) when used for control of root growth in sewer lines must be classified for "Restricted Use Only" to ensure their safe use. The chemical is hazardous, and applicators need to wear protective equipment and receive specialized training when using the products for this use. Airrigation Engineering Co., Inc. (Airrigation) has failed to comply with the Agency's requirement for Restricted Use classification for the products listed above. EPA is therefore issuing this Notice of Intent to Cancel as required by section 6(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

**DATES:** Requests for a hearing by a registrant or other adversely affected parties must be received by the Office of the Hearing Clerk at the address given below on or before October 21, 1994 or within 30 days from receipt of this Notice by the registrant, whichever occurs later.

**ADDRESSES:** Written requests for a hearing, identified by the document control number [OPP-66200], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** By mail: Steve Robbins, Acting Product

Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Telephone: (703)-305-6900.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

This Notice announces EPA's intent to cancel the registrations of the pesticide products Vaporooter A Foaming Fumigant (EPA Reg. No. 9993-1), Foam Coat Vaporooter (EPA Reg. No. 9993-2), and Sanafoam Vaporooter II (EPA Reg. No. 9993-3). For the reasons set forth below, the Administrator has determined that these products, when used in accordance with widespread and commonly recognized practice, will generally cause unreasonable adverse effects on public health and/or the environment unless they are classified for restricted use. This determination is based on the hazardous nature of these products and their active ingredient, metam-sodium; the complex application method for use of these products; the need for specialized equipment and training to apply these products; and the potential for residential exposure to the products due to incorrect application procedures.

*A. Organization of this Notice*

This Notice is divided into nine units. Unit I provides introductory information and describes the legal authority for this action. Unit II discusses the factual background for this action, including information relating to the active ingredient metamsodium, and communications with Airrigation Engineering Co. Unit III presents the EPA's determinations with regard to Airrigation's sewer use products. Unit IV describes the role of the Scientific Advisory Panel and the Secretary of Agriculture relating to this action. Unit V sets forth the Agency's determination that these product registrations must be canceled. Unit VI discusses the disposition of existing stocks of the products. Unit VII contains a discussion of the procedures for implementing the actions required by this Notice, as well as the procedures for requesting a hearing. Unit VIII identifies the references. Unit IX gives information on the Public Docket.

*B. Legal Authority*

Before a pesticide product may be lawfully sold or distributed in either intrastate or interstate commerce, the product must be registered by EPA, pursuant to FIFRA sections 3(a) and 12(a)(1).

A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specific use instructions, precautions and other terms and conditions. A pesticide product may be registered or remain registered only if it meets the statutory standard for registration. Among other things, a pesticide must perform its intended pesticidal function without causing "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of [the] pesticide" (FIFRA section 2(bb)).

In addition, under FIFRA section 3(d)(1)(C), the Administrator may classify a pesticide for restricted use if she determines that the pesticide, when applied in accordance with its directions for use, warnings, and cautions, or, in accordance with widespread and commonly recognized practice, may generally cause unreasonable adverse effects on the environment, without additional regulatory restrictions. Once classified for restricted use, a product can be applied only by or under the direct supervision of a certified applicator (FIFRA sections 3(d)(1)(C), 12(a)(2)(F), 12(a)(2)(G)). EPA has promulgated regulations which establish the procedures EPA will follow when classifying a product for restricted use. Pursuant to 40 CFR 152.165(c)(2), the Agency may notify a registrant of the decision to classify its product for restricted use and require the registrant to submit certain information, listed in paragraph (c)(1) of that section, to comply with the classification decision. If the registrant fails to comply with this notification, the Agency may initiate cancellation proceedings.

The regulations at 40 CFR 152.170(a) provide general criteria that guide EPA's decision to classify a pesticide product for restricted use. In general, use of a product will be restricted if the Agency determines that: (1) the product or its use poses a serious hazard that may be mitigated by restricting use; (2) the product's labeling, when considered according to the factors in paragraph (e)(2) of that section, is not adequate to mitigate the hazard(s); (3) restriction of the product would decrease the risk of adverse effects; and (4) the decrease in risks of the pesticide as a result of restriction would exceed any attendant decrease in benefits. Paragraph (e)(2) of that section states that labeling will be judged adequate, and therefore will be appropriate for unrestricted use products, if it meets all of the following criteria: (1) the user would not be required to perform complex operations or procedures requiring specialized training and/or experience; (2) the label directions do not call for a specialized apparatus, protective equipment, or materials that reasonably would not be available to the general public; (3) failure to follow label directions in a minor way would result in few or no significant adverse effects; (4) following directions for use would result in few or no significant adverse effects of a delayed or indirect nature through bioaccumulation, persistence, or pesticide movement from the original application site; and (5) widespread and commonly recognized practices of use would not nullify or detract from label directions such that unreasonable adverse effects on the environment might occur.

The burden of demonstrating that a pesticide product satisfies the statutory criteria for registration is at all times on the proponents of initial or continued registration. Under FIFRA section 6, the Agency may issue a Notice of Intent to Cancel the registration of a pesticide product whenever it appears to the Administrator that the product no longer satisfies the statutory criteria for registration. If appropriate, the Agency may require modifications to the terms and conditions of registration, such as deletion of particular uses or revisions in labeling, as an alternative to cancellation. If the Notice requires such changes, cancellation may be avoided by making the changes specified in the Notice, if possible. Adversely affected persons may also request a hearing on the cancellation of a specified registration. If they do so in a legally effective manner, the registration will be continued pending a decision at the conclusion of an administrative hearing.

**II. Factual Background**

*A. Metam-Sodium*

Metam-sodium, the sodium salt of methyldithiocarbamate, is extremely volatile and very unstable under aerobic conditions with a half-life of 23 minutes. Its principal derivative is methyl isothiocyanate (MITC). In water, metam-sodium is rapidly decomposed to MITC and hydrogen sulfide ($H_2S$). Pesticide products containing metam-sodium are registered for numerous agricultural and non-agricultural uses, including as a soil fumigant to control insects, nematodes, soil-borne diseases, and weeds prior to planting crops. Other

uses include wood preservation, tree root killer in sewers, slimicide, and use in sugar refineries.

Metam-sodium and MITC show varying degrees of acute and chronic toxicity. Due to the chemical nature of metam-sodium, in that it is readily hydrolyzed to MITC and $H_2S$, the Agency believes that exposure from pesticide use would be related to MITC rather than metam-sodium (Ref. 1). MITC is shown to be moderately toxic in short-term (acute) exposures to laboratory test animals. In rabbits, MITC is shown to be a severe skin and respiratory tract irritant and a severe eye irritant. Test animals exposed to high levels of air-borne MITC in acute studies show eye irritation, hypoactivity, distressed breathing, convulsions, and death.

Metam-sodium is shown to be slightly toxic to laboratory test animals in acute studies. If on skin or ingested, it is corrosive and causes severe irritation or burns. Metam-sodium has the potential for causing adverse health effects from both acute and chronic exposures. In addition, existing medical conditions may be exacerbated upon exposure to metam-sodium. Acute health effects include excessive salivation, sweating, fatigue, weakness, nausea, headache, dizziness, and eye and respiratory tract irritation. Chronic conditions can include conjunctivitis, photophobia, and blurred vision. Studies also have suggested that the chemical may exhibit reproductive toxicity. Medical conditions that are prone to further aggravation upon exposure to metam-sodium include impaired pulmonary functions and preexisting eye problems.

Potential public health and environmental impacts of this chemical were demonstrated when in July 1991, a train derailment resulted in 19,500 gallons of metam-sodium being spilled into the Sacramento River near Dunsmuir, California. All aquatic life and substantial shoreline vegetation along a 45-mile stretch of river leading to Lake Shasta were killed. As a result of this incident, the Agency expanded and intensified ongoing review of this chemical. Registrants formed the Metam-Sodium Task Force in response to the Agency's request for data needed to fully assess the environmental and public health impact of this chemical.

The Agency's review of available data led to conclusions that agricultural uses of metam-sodium may result in unacceptable risk from acute and developmental toxicity effects. In order to mitigate agricultural use risks, EPA and the Task Force entered into an agreement which included: (1) label amendments to limit around-home and small-area uses (lawns, seed-beds, plant-beds, and other non-field limited areas) to certified applicators; products will be labeled with "Restricted Use"; (2) label amendments to include requirements for protective clothing and equipment; (3) a reentry waiting period of 48 hours for agricultural sites; and (4) a tarping requirement for treated areas adjacent to homes. These requirements are currently in place and were voluntarily implemented with the cooperation of the Task Force consisting of all producers of technical grade metam-sodium as well as other product formulators.

In addition to this agreement between EPA and the registrants, both parties initiated reviews of other uses of metam-sodium. These reviews were intended to determine what measures, if any, would be needed to further mitigate risk.

*B. Use of Metam-Sodium in Sewers*

Sewer lines are frequently damaged and blocked by tree roots. This is a perennial and costly problem for municipalities. Lateral lines to buildings on private property may also be damaged and blocked by roots. A mechanical remedy involves the use of a rotary cutting tool. This technique only offers temporary results, and may even exacerbate the problem by causing root branching. Rotary cutters also damage sewer pipes. When the damage and blockage are too severe, sewers are dug up and replaced at considerable cost to the community or property owner (Ref. 2).

Sewer root control via this chemical system involves the use of metam-sodium, dichlobenil, and a foaming agent. Application of this pesticide involves premixing of measured chemicals and a knowledge of calibrated chemical feeding, pressurizing, and foam-generating equipment.

In 1971 and 1973, Airrigation obtained registrations for two pesticide products to control roots in sewers. Each product consisted of metam-sodium and dichlobenil mixed together just prior to use. A patent was obtained which prevented potential competition from marketing this type of combination product for controlling roots in sewers. The registrant limited sales of its products to a few contractors and encouraged them to train their staff due to the complex application method. Experience with this pesticide treatment over the ensuing years showed it to be superior to mechanical methods and it became the preferred method for controlling roots in sewers. Following the expiration of Airrigation's patent, three additional products have been registered for this use.

In March 1993, EPA learned of an incident that occurred approximately 1 year prior to that involving Airrigation's product, Sanafoam Vaporooter II. In that incident, a worker in Los Alamos, New Mexico, improperly applied the Sanafoam product, causing the product to back up into the plumbing of a nearby residence. The residents reported the incident to EPA, stating that they suffered respiratory and pulmonary injury (Ref. 3). Airrigation did not provide EPA with any information regarding the incident.

More recently, on July 11, 1994, an incident involving a metam-sodium sewer use product occurred in Roseville, CA, and resulted in a home being evacuated (Ref. 4). The foam product being applied by a municipal sewer maintenance crew flowed into one home and out into the yard of another home located behind it. What caused the pesticide product to flow into the home rather than down the sewer pipes is being investigated.

Upon completing review of the available data base and use history of products in this application, the Agency concluded that the sewer root control use of metam-sodium should be restricted. This decision was based largely upon the potential risks to workers and the public due to the hazardous nature of the chemical, the need for specialized training associated with complex equipment and application procedures, the need for specialized protective equipment, the potential for metam-sodium to enter buildings through drains, and the potential for damage to sewage biological digestion processes (Ref. 8). Technical information supporting this restricted-use classification was obtained from product literature on the registered products, two applicants of pending metam-sodium sewer use products with experience as contract users of similar registered products, and operation records from two large municipal sewage treatment systems. Moreover, the Agency believes that because of the patent expiration and the effectiveness of metam-sodium root control, there is the probability of large market expansion throughout the United States with increased potential risk from new suppliers. The Agency has concluded that the complex application method could pose an unreasonable risk to inadequately trained workers as well as to the public.

The Agency has also concluded that restricted use classification should be phased in over time to allow for development of a training program for

applicator certification. This program is being designed by metam-sodium registrants, in cooperation with the Agency. The restricted use requirement will only go into effect after the training manual, testing, and certification are available. The three most recent registrants have agreed to restricted use classification and to support development of EPA/State training programs for applicator certification. The restricted use classification must be reflected on product labeling within 120 days of the issuance of an EPA accepted training manual for applicator certification.

Airrigation's sewer treatment products are not currently classified as restricted use pesticides. Therefore, any persons can purchase and apply these products, regardless of their qualifications to do so. Airrigation has asserted that restricting the use of these products is not necessary because Airrigation gives a training program to all customers who purchase the products. However, EPA believes that this system is insufficient to assure that the people who actually perform the product application are adequately trained. If these products were classified for restricted use, it would be a violation of FIFRA for anyone other than a certified applicator, or someone under the direct supervision of a certified applicator, to apply the products (FIFRA sections 12(a)(2)(F),(G)), and EPA would have assurance that the applicators had at least received the requisite training in use of these products.

Pursuant to the decision by EPA to classify all metam-sodium sewer use products as restricted use pesticides, the Agency communicated frequently with affected registrants on this matter. The Agency's initial approach to implementing restricted use classification was to request voluntary compliance in the spirit of continued cooperation between EPA and the industry. Except for Airrigation, all affected registrants of both pending and registered metam-sodium sewer use products agreed to comply. Despite numerous meetings and much correspondence with EPA, Airrigation has remained steadfast in its refusal to voluntarily implement EPA's determination. Therefore, on September 24, 1993, a letter was sent to Airrigation which formally requested, pursuant to 40 CFR 152.165(c)(2), that the company submit amended labeling for the above-named products to reflect a restricted use classification and additionally requested a written response to that letter within 10 days (Ref. 5). Airrigation responded in a letter dated October 14, 1993, that was received by the Agency on October 22, 1993. The letter stated that the company declined to agree to the reclassification of its products (Ref. 6). Because Airrigation has failed to adopt the Agency's classification of its products for restricted use, EPA is initiating this cancellation action.

## III. Findings on Airrigation Engineering Sewer Use Products

### *A. General Criteria*

The Agency has determined, pursuant to FIFRA section 3(d)(1)(C), that restricted use classification for the use of metam-sodium in sewers is required due to the elaborate and complicated methods of applying this chemical and the potential for harmful human exposure. The Agency has examined available information regarding risks from potential exposure to metam-sodium use in sewer root control and has concluded that existing and potential risks are unacceptable, based upon the following:

1. These products pose a serious hazard to workers and the public due to their acute toxicity and developmental toxicity, which are evident from available toxicological studies (Ref. 1). There is a potential, realized in at least one incident, for the products to invade residential and commercial properties during use, causing injury to those inside (Ref. 2). Inhalation and dermal exposure risks to mixer/loaders and applicators exist due to the high volatility of methyl isothiocyanate (MITC), the principle derivative of metam-sodium (Ref. 1). Potential for worker and public exposure, through misuse or otherwise, is significant due to the complexity of the application method used for applying metam-sodium in sewer systems (Ref. 7). In addition, these products have the potential to contaminate ground and surface water, and to damage biological sewage treatment systems (Ref. 8). The Agency believes that these hazards could be mitigated through restricting the products' use.

2. The current labeling of the Airrigation products is not adequate to mitigate the hazard these products pose. Under EPA's regulations, a label will be deemed "adequate," and thus suitable for products classified for general use, only if it meets all of the factors listed in 40 CFR 152.170(e)(2). Those factors are listed in Unit I.B. of this preamble. EPA finds that Airrigation's sewer use products do not meet three of those factors as follows:

a. Users of these products are required to perform complex operations or procedures requiring specialized training or experience. All of the products' labels state "RECOMMENDED FOR USE BY TRAINED PERSONNEL" (Refs. 9, 10, and 11). On August 25, 1993, Agency personnel attended a demonstration of treatment of a sewer line with another metam sodium product to learn first-hand the type of operations that are involved. The procedures and equipment utilized were highly complex and clearly required specialized training and knowledge to effectively operate (Ref. 7). As noted above, the current labeling of these products does not restrict who can apply the products. Although Airrigation states that it provides some type of training to all of its customers, the Agency cannot ensure that only people who have been adequately trained will be permitted to apply these products. Therefore, these products do not meet factor (e)(2)(i).

b. The label directions for these products call for specialized apparatus and protective equipment that reasonably would not be available to the general public. In order to use the products, the applicator must use a special foam generator to convert the liquid product constituents to a foam form (Refs. 9, 10, and 11). The Foam-Coat Vaporooter label directs users "USE ONLY SPECIALIZED FOAM APPLICATION EQUIPMENT," and then states that this equipment is available from Airrigation Engineering (Ref. 10). This machinery is necessary to produce the foam and to introduce the foam into the sewer lines. The Sanafoam Vaporooter II label only gives directions for use of the product with Airrigation's FOAM MAKER (R) generator (Ref. 11). In addition, that label's directions for use instruct the user to "[u]se specialized foam application equipment," and, if treating a building lateral line, to "[b]e sure foam application discharge hose is also of a specialized type" (Ref. 11). Therefore, the Airrigation products' labels do not meet factor (e)(2)(ii).

c. Failure to follow label directions in a minor way could result in significant adverse effects. EPA is very concerned regarding the potential these products have to invade residential or other structures through improper application. The Sanafoam Vaporooter II label acknowledges this danger and states that "caution must be used to assure foam does not travel into adjacent structures" (Ref. 11). However, as the incident in Los Alamos, NM, shows, this result is possible in spite of the cautionary labeling. EPA no longer believes that this cautionary statement is sufficient to mitigate these products' potential to expose the general public to highly toxic fumigants. A person who is

not thoroughly trained and familiar with the complicated application methods and equipment for these products could easily make a minor error in the application procedure, which could cause widespread human exposure and result in adverse effects to those people and the environment. Therefore, the Airrigation products' labels do not meet factor (e)(2)(iii).

3. Restriction of the use of metam-sodium products in sewers would decrease the risk of adverse effects to the public and to workers. Requiring that all workers who apply these products be properly trained certified applicators, or under the direct supervision of properly trained certified applicators, will ensure to the greatest degree possible that users of these products have the requisite skill and ability to utilize the complex machinery and application methods necessary to apply these products as safely as possible.

4. The decrease in potential risk from restricting use of these products will exceed any incidental decrease in their benefits. The Agency believes that restricted use classification will not significantly increase the cost of sewer root control treatment. Because there are other substantially similar products available which will be classified for restricted use when the applicator training program is completed, there will be little benefit to the public from having one product on the market with much higher risks than the others at comparable cost. The need for root control in sewer lines will continue to be met by the other products with less potential for adverse effects.

*B. Risk-Benefit Assessment*

There is a significant potential for serious harm to humans and the environment due to the improper application of these products. The Agency cannot adequately mitigate this potential risk through cautionary labeling alone because the products' application method requires specialized equipment and training. The best way EPA can ensure that all product applicators are sufficiently skilled to prevent harm to humans and the environment, to the greatest extent possible, is to require all persons who apply these products to be properly trained certified applicators or under the direct supervision of such certified applicators.

There are currently three other registrants marketing products which are substantially similar to the Airrigation products. Each of these companies agreed upon registration of its product to participate in developing a training program for sewer treatment applicators, and to label its sewer treatment products for restricted use once the program is made available to the States. EPA believes that the cost of these products is comparable to that of Airrigation's products since the amount of chemicals (active ingredients), the percentage and quality of foaming ingredients are all very similar. The other registrants have indicated to EPA that they do not expect restricted use classification to increase the cost of their products to the public. EPA also believes that these companies' products, and any new products to enter the market in the future, will be sufficient to meet the public demand for sewer root treatment. In performing this function, they will pose less overall risk to the public than the Airrigation products because they will be used only by or under the direct supervision of properly trained certified applicators.

Therefore, in comparison to other available alternatives, the Airrigation products pose serious risks and provide negligible benefits, if any. Unless these products are classified for restricted use under the same phased approach as the other registrants' products, they will no longer meet the statutory standard for registration.

*C. Measures Short of Cancellation*

Under FIFRA, prior to taking regulatory action to cancel a pesticide's registration, the Administrator must consider whether any measures short of cancellation would be sufficient to reduce the risk of adverse effects to an acceptable level. As discussed above, the Agency has determined that restricted use classification would reduce the potential risks of these products to humans and the environment to an acceptable level. That was the basis for EPA's letter of September 24, 1993 to Airrigation. Airrigation refused to comply with the Agency's decision. Accordingly, there are no other measures short of cancellation which would reduce the potential risks from these products to an acceptable level. In order to avoid cancellation, Airrigation must amend the registrations of these products so that they will be classified for restricted use upon issuance of the applicator training program. Additional information on avoiding cancellation can be obtained from the Office of Pesticide Program personnel listed in the section above under the heading "For Further Information Contact."

**IV. Role of the Scientific Advisory Panel and the Secretary of Agriculture**

Sections 6(b) and 25(d) of FIFRA provide certain opportunities for the Secretary of the Department of Agriculture (USDA) and the FIFRA Science Advisory Panel (SAP) to review and comment upon a draft Notice of Intent to Cancel, and in the case of USDA, an analysis of the impact of the proposed action on the agricultural economy. These reviews may be waived, and if they are, the Notice may be published without delay.

On May 2, 1994, EPA asked the SAP and the Secretary of USDA to waive their rights to review and comment on this Notice (Refs. 12 and 13). These requests were made because the bases for this notice are regulatory in nature due to the need for specialized training, and specialized application and protective equipment when using these products. Therefore, a science finding is not required. Moreover, the use of these products does not involve agricultural commodities. On May 23, 1994, the SAP notified EPA that it waived its review of this action (Ref. 14). On May 12, 1994, Nancy N. Ragsdale, Director, National Agricultural Pesticide Impact Assessment Program, USDA, notified EPA that the Secretary would waive review of this action (Ref. 15). Because USDA and SAP have waived their review of this action, the Agency is not delaying issuance of this Notice.

**V. Agency Determination that Cancellation of Airrigation Engineering's Products is Necessary**

EPA has determined that the Airrigation sewer treatment products listed above, without being classified for restricted use, fail to meet the standard for registration under FIFRA for the reasons listed below, and that the registrations of these products must be canceled.

1. These products pose a serious hazard, due to their acute and developmental toxicity and their complicated and difficult application methods, which could be adequately mitigated through restricted use classification.

2. There are adequate alternative products which will be classified for restricted use (when the certified applicator training program is available to the States) which will perform the same function and provide the same benefits while posing significantly lower risks.

3. EPA has informed Airrigation of this determination pursuant to 40 CFR 152.65(c)(2), and Airrigation has refused to comply with the Agency's decision.

## VI. Disposition of Existing Stocks

For purposes of this Notice, existing stocks are defined as those stocks of Vaporooter A Foaming Fumigant (EPA Reg. No. 99931), Foam Coat Vaporooter (EPA Reg. No 9993-2), and Sanafoam Vaporooter II (EPA Reg. No. 9993-3) which were in the United States and were packaged and labeled for shipment prior to the effective date of the cancellation of the registrations of these products. The Agency has determined that no further sale, distribution, or use of existing stocks of these products will be permitted after the effective date of cancellation of the registration of the product, except for distribution for the purposes of disposal. Owners of existing stocks of the products may at any time dispose of the product in accordance with applicable local, State, and Federal regulations. The determination is based on the finding that continued use of these products without restricted use classification may result in unreasonable adverse effects on the environment.

## VII. Procedural Matters

This Notice announces EPA's intent to cancel the registration of Airrigation Engineering Co., Inc., products containing metam-sodium for use in treating sewer lines, and any product with any of the registration numbers listed above that is supplementally distributed. This action is taken pursuant to authority in section 6(b) of FIFRA. Under FIFRA section 6(b)(1), registrants and other adversely affected parties may request a hearing on the cancellation actions that this Notice initiates. Any hearing concerning cancellation of registration for any affected pesticide product will be held in accordance with FIFRA section 6(d). Unless a hearing is properly requested in accordance with the provisions of this Notice, the registration will be canceled. This unit of the Notice explains how such persons may request a hearing in accordance with the procedures specified in this Notice, and the consequences of requesting or failing to request a hearing.

### *A. Procedures for Requesting a Hearing*

To contest the regulatory action initiated by this Notice, registrants or other adversely affected persons must request a hearing within 30 days of the registrant's receipt of this Notice, or within 30 days from the date of publication of this Notice in the **Federal Register**, whichever occurs later. All registrants and other adversely affected persons who request a hearing must file the request in accordance with the procedures established by FIFRA and EPA's Rules of Practice Governing Hearings (40 CFR part 164). These procedures require that all requests must identify the specific registration by Registration Number and state the basis for objecting to the cancellation of the product for which a hearing is requested, and must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing. Requests for a hearing should also be accompanied by objections that are specific to each basis of cancellation of the pesticide product for which a hearing is requested.

Requests for a hearing must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

1. *Consequences of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by EPA's Rules of Practice Governing Hearings under FIFRA section 6 (40 CFR part 164).

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the cancellation of a specific product subject to this Notice is not requested in a timely and effective manner by the end of the applicable 30-day period, registration of that product will be canceled automatically.

### *B. Separation of Functions*

EPA's rules of practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding ex parte with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of his/her representatives (40 CFR 164.7).

Accordingly, the following EPA offices, and the staffs thereof, are designated as the judicial staff of EPA in any administrative hearing on this Notice of Intent to Cancel: the Office of Administrative Law Judge, the Environmental Appeals Board, the Deputy Administrator and the members of the staff of the immediate office of the Deputy Administrator, and the Administrator and the members of staff in the immediate office of the Administrator. The following offices are designated as the trial staff in any proceeding which may arise under this Notice: the Office of General Counsel, the Assistant Administrator for the Office of Prevention, Pesticides, and Toxic Substances and his/her immediate staff, the Office of Pesticide Programs, and the Office of Compliance Monitoring. None of the persons designated as the judicial staff may have any ex parte communications with the trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in these proceedings, without fully complying with the applicable regulations.

## VIII. References

The following list of references are contained in the Public Docket and can be made available on request:

1. June 22, 1994 Memorandum from Ameesha Mehta to Penny Fenner-Crisp regarding worker and residential/bystander risk.
2. July 24, 1992 Memorandum from Anne E. Linsay to Stephen L. Johnson regarding support needs for restricted use (RU) labeling of metam-sodium products.
3. April 11, 1992 Incident Report—Herbicide Contamination of a Private Residence in Los Alamos, NM.
4. July 12, 1994 Newspaper Article "Toxic Sewer Spill Forces Evacuation," The Press Tribune.
5. September 9, 1993 letter from Larry Culleen requesting voluntary compliance with restricted use classification.
6. October 14, 1993 Letter from Barbara H. Tiernan to Larry Culleen, refusing to voluntarily comply with Restricted Use Labeling.
7. December 30, 1992 Letter from Frank T. Sanders to Barbara H. Tiernan regarding EPA's decision to classify sewer use products as RU.
8. October 3, 1994 Letter from Anthony Malavenda, Duke's Sales, to Susan Lewis regarding metam-soduim sewer use for root control.
9. Vaporooter labeling, EPA Reg. No. 9993-1.
10. Foam-Coat Vaporooter labeling, EPA Reg. No. 9993-2.
11. Sanafoam Vaporooter II labeling, EPA Reg. No. 9993-3.
12. May 2, 1994 Memorandum from Doug Campt to Bruce Jaeger, Science Advisory Panel, requesting waiver of review.
13. May 2, 1994 Letter from Doug Campt to Nancy Ragsdale of USDA, requesting waiver of review.
14. May 23,1994 Response memorandum from SAP regarding waiver request.
15. May 12, 1994 Letter to Doug Campt on USDA's reply to request to waive review.

## IX. Public Docket

The Public Docket containing the above references is located at 1921

Jefferson Davis Highway, Rm. 1132, Arlington, Virginia. The references can be viewed from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**List of Subjects**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 12, 1994.

**Daniel M. Barolo,**

*Director, Office of Pesticide Programs.*

[FR Doc. 94–23353 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–F

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**[OPPTS–211039; FRL–4907–1]**

## TSCA Section 21 Petition; Response to Citizens' Petition

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

**ACTION:** Response to citizens' petition.

**SUMMARY:** On April 4, 1994, Mr. Mark Truelock (Petitioner), of Del City, Oklahoma, sent a letter to the Administrator of EPA designated as a petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. Enclosed with that letter was a copy of an earlier letter, dated November 26, 1993, also designated as a section 21 Petition. The Petition describes problems Mr. Truelock has experienced over the years in seeking relief from periodic overflowing of raw sewage from a drainage ditch adjacent to his house. The problem described is not amenable to solution by remedies provided by section 21 of TSCA, nor does Petitioner request such action. In December of 1993, in response to earlier correspondence, EPA Region 6 informed Petitioner of actions already taken under the Clean Water Act to resolve the problem. Therefore, Petition is denied because no action authorized under TSCA section 21 has been requested. Specifically, Petitioner has not sought rulemaking under TSCA section 4, 6, or 8, or an order under TSCA section 5(e) or 6(b)(2).

**FOR FURTHER INFORMATION CONTACT:** Edward M. Brooks, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. 515A, 401 M St., SW., Washington, DC 20460, (202) 260–3754.

**SUPPLEMENTARY INFORMATION:**

### I. Statutory Requirements

Section 21 of TSCA provides that any person may petition EPA to initiate proceedings for issuance of rules under sections 4, 6, and 8 of TSCA. A section 21 petition must set forth facts which the petitioner believes establish the need for the rules requested. EPA is required to grant or deny the petition within 90 days. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons in the **Federal Register**.

Within 60 days of denial, the petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking. For petition for a new rule or order, the court must provide opportunity for the petition to be considered de novo. After hearing the evidence, the court can order EPA to initiate the requested action.

Relief available under section 21 is limited to initiation of a proceeding to issue, amend, or appeal a rule under section 4, 6, or 8, or an order under section 5(e) or 6(b)(2).

### II. Description of Petition and Related Events

EPA received an April 4, 1994, letter from Petitioner labeled "TSCA–21." That letter provided no details and requested no action, but simply asserted that EPA had failed to respond to a Petition on December 6, 1993. The Agency has no record of correspondence from Petitioner dated December 6th. The April 4 letter was accompanied by a second letter, dated November 26, 1993, but first received with the April letter that is also designated as a TSCA section 21 petition. The petition does not expressly request any action, but instead recounts Petitioner's experiences in seeking relief from a chronically overflowing drainage ditch that runs adjacent to his property line. The petition also references and notes that EPA had not responded to an earlier July 14, 1993 letter on the same matter Petitioner had sent to the EPA Region 6 Office in Dallas, Texas. The July 14 letter chronicled Petitioner's experiences in seeking relief from the Del City authorities, stated his intent to be compensated for past damages, and referred to three sections (308, 309, and 326) of the Clean Water Act. While neither the section 21 Petition nor the July 14, 1993 letter request any specific actions from EPA, the Agency believes it is reasonable to infer from both that Petitioner seeks action to prevent the drainage ditch from periodically overflowing into his home.

In fact, EPA's Region 6 Office did respond to Petitioner's July letter on December 7, 1993. That response noted efforts made by EPA, the Oklahoma Department of Environmental Quality, and Del City to correct the collection system deficiencies; informed Petitioner that EPA had issued an Administrative Order in February of 1992, requiring the Del City Municipal Service Authority to complete construction of the collection system improvements by the end of 1993 (Docket No. VI–921246); and concluded by suggesting that Petitioner inform the Del City Municipal Service Authority and/or EPA if sanitation sewer overflows occurred after that date, providing specific information on location(s), date/time(s), and circumstances of such events.

### III. Disposition of Petition

The petition is denied because it did not request rulemaking under TSCA section 4, 6, or 8, or an order under TSCA section 5(e) or 6(b)(2).

The problem described, moreover, is not amenable to those authorities. Notwithstanding denial of the petition, the Agency has investigated Petitioner's complaints and provided relief. The problem described by Petitioner is being addressed by EPA Region 6 under the Clean Water Act, and Petitioner has been expressly requested to bring any further occurrences of the problem to the attention of the Del City Municipal Authority and/or the EPA Regional Office. Petitioner has not reported on, nor is the Agency aware of, any incidents that have occurred after December 31, 1993.

### IV. Administrative Record

EPA has established a public record of those documents the Agency considered in reviewing this petition. The record consists of documents located in the file designated by Docket Number/ Administrative Record Number OPPTS–211039, located at the TSCA Nonconfidential Information Center NCIC. This docket is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460. The public record consists of all documents in the OPPTS file and all documents cited in the documents in that file.

**List of Subjects**

Environmental protection, Citizens petition.

Dated: September 14, 1994.

**Susan H. Wayland,**

*Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

[FR Doc. 94–23356 Filed 9–20–94; 8:45 am]

BILLING CODE 6560–50–F

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed; American President Lines, Ltd. et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 203–011340–002.
*Title:* APL/OOCL Reciprocal Slot Exchange & Coordinated Sailing Agreement.
*Parties:*

American President Lines, Ltd.
Orient Overseas Container Line Inc.

*Synopsis:* The proposed amendment provides for the suspension of this Agreement during the unexpired period of its term, while the APL/MOL/OOCL Asia-Pacific Alliance Agreement remains effective.

*Agreement No.:* 203–011466.
*Title:* Container Transport Agreement.
*Parties:*

Cast Logistics (U.S.A.) Limited
DSR–Senator Lines
Compagnie Maritime d'Affretement
Cho Yang Shipping Co. Ltd.

*Synopsis:* The proposed Agreement authorizes the parties to consult and agree upon deployment and utilization of vessels, rationalization of sailings, and chartering of space from each other in the trade between U.S. Atlantic Coast ports (Bangor, ME./Key West, Florida range) and interior points via such ports and Mediterranean and Middle East ports. In addition, the parties may discuss and, on a voluntary basis, agree upon rates, charges, service items and conditions of service and policy in the Middle East trade.

*Agreement No.:* 203–011467.
*Title:* APL/MOL/NLL/OOCL Asia Atlantic Alliance Agreement.
*Parties:*

American President Lines, Ltd.
Nedlloyd Lines B.V.
Mitsui O.S.K. Lines, Ltd.
Orient Overseas Container Lines, Inc.

*Synopsis:* The proposed Agreement authorizes the parties to discuss and agree upon deployment and utilization of vessels, rationalization of sailings, the chartering of space from each other, and to discuss other matters of mutual concern in the trade between ports and points in the Far East, on the one hand, and, on the other, ports on the Atlantic and Gulf Coasts of the United States via the Panama Canal, and points in the U.S., including its commonwealths, territories and possessions via such Atlantic and Gulf Coast ports. In addition, the parties may discuss and agree upon any rates, terms and conditions of service contracts or tariffs. Adherence to any agreement reached is voluntary.

*Agreement No.:* 203–011468.
*Title:* APL/MOL//OOCL Asia-Pacific Alliance Agreement
*Parties:*

American President Lines, Ltd.
Mitsui O.S.K. Lines, Ltd.
Orient Overseas Container Lines, Inc.

*Synopsis:* The proposed Agreement authorizes the parties to discuss and agree upon deployment and utilization of vessels, rationalization of sailings, the chartering of space from each other, and to discuss other matters of mutual concern in the trade between ports and points in the Far East, on the one hand, and, on the other, ports on the Pacific Coast of the United States and points in the U.S., including its commonwealths, territories and possessions via such Pacific Coast ports. In addition, the parties may discuss and agree upon any rates, terms and conditions of service contracts or tariffs. Adherence to any agreement reached is voluntary.

*Agreement No.:* 217–011469.
*Title:* U.S.A. Tecmarine Inc./ Tecmarine Lines, Inc. Slot Charter Agreement.
*Parties:*

U.S.A. Tecmarine Inc.
Tecmarine Lines, Inc.

*Synopsis:* The parties have filed an Agreement for the carriage of cargo.

*Agreement No.:* 203–011470.
*Title:* FMG/Lykes Cooperative Working Agreement.
*Parties:*

Flota Mercante Grancolombiana S.A.
Lykes Bros. Steamship Co., Inc.

*Synopsis:* The proposed Agreement authorizes the parties to discuss and agree upon deployment and utilization of vessels, rationalization of sailings, the chartering of space from each other, and to discuss matters of mutual concern in the trade between ports and points in the United States, on the one hand, and ports and points in Mexico, Colombia, Ecuador, Peru and Chile (including points in Boliva and Argentina) on the other hand. The parties have requested a shortened review period.

Dated: September 16, 1994.

By Order of the Federal Maritime Commission.

**Ronald D. Murphy,**

*Assistant Secretary.*

[FR Doc. 94–23333 Filed 9–20–94; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### Fairbanco Holding Company, Inc., ESOP, 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 October 14, 1994.

**A. Federal Reserve Bank of Atlanta** (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. Fairbanco Holding Company, Inc., ESOP,* Fairburn, Georgia; to become a bank holding company by acquiring 31 percent of the voting shares of Fairbanco

Holding Company, Inc., Fairburn, Georgia, and thereby indirectly acquiring Fairbanco Banking Company, Fairburn, Georgia.

*2. Gulf West Banks, Inc.*, St. Petersburg, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Mercantile Bank, St. Petersburg, Florida.

**B. Federal Reserve Bank of Dallas** (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. First Bancorp, Inc.*, Denton, Texas; to acquire 100 percent of the voting shares of Kaufman Bancshares, Inc., Kaufman, Texas, and thereby indirectly acquire Farmers and Merchants National Bank, Kaufman, Texas.

*2. First Delaware Bancorp, Inc.*, Dover, Delaware; to acquire 100 percent of the voting shares of Kaufman Bancshares, Inc., Kaufman, Texas, and thereby indirectly acquire Farmers and Merchants National Bank, Kaufman, Texas.

*3. Texas Financial Bancorporation, Inc.*, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Kaufman Bancshares, Inc., Kaufman, Texas, and thereby indirectly acquire Farmers and Merchants National Bank, Kaufman, Texas.

**C. Federal Reserve Bank of San Francisco** (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

*1. First Interstate Bancorp*, Los Angeles, California; to merge with Levy Bancorp, Ventura, California, and thereby indirectly acquire Bank of A. Levy, Ventura, California.

Board of Governors of the Federal Reserve System,

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 94-23288 Filed 9-20-94; 8:45 am]

BILLING CODE 6210-01-F

## Valerie McLanahan Goetz, et al.; 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 October 17, 1994.

**A. Federal Reserve Bank of Atlanta** (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. Valerie McLanahan Goetz*, as trustee of the C.R. McLanahan Trust I and II, Atlanta, Georgia; to acquire an additional 26.4 percent, for a total of 28.9 percent, of the voting shares, of First American Bancorp, Athens, Georgia, and thereby indirectly acquire First American Bank & Trust Company, Athens, Georgia.

*2. John Dudley McLanahan*, as trustee of the C.R. McLanahan Trust I and II, Athens, Georgia; to acquire an additional 26.4 percent, for a total of 35.9 percent, of the voting shares of First American Bancorp, Athens, Georgia, and thereby indirectly acquire First American Bank & Trust Company, Athens, Georgia.

**B. Federal Reserve Bank of Chicago** (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Craig H. Haesemeyer*, Menlo Park, California, as trustee of the W.L. Haesemeyer Marital Trust; to acquire 78.23 percent of the voting shares of State Center Financial, Inc., State Center, Iowa, and thereby indirectly acquire Central State Bank, State Center, Iowa.

Board of Governors of the Federal Reserve System, September 15, 1994.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 94-23289 Filed 9-20-94; 8:45 am]

BILLING CODE 6210-01-F

## Norwest Corporation, Minneapolis, Minnesota; Request for Relief from a Commitment

Norwest Corporation, Minneapolis, Minnesota (Norwest), a bank holding company within the meaning of the Bank Holding Company Act, 12 U.S.C. 1841 et seq., has requested that the Board grant to it relief from a commitment that it made in connection with the Board's approval of Norwest's application to underwrite and deal in certain securities to a limited extent through Norwest Investment Services, Inc., Minneapolis, Minnesota (NISI). *Norwest Corporation*, 76 Federal Reserve Bulletin 79 (1990) (*Norwest Order*). In the *Norwest Order*, the Board authorized Norwest to underwrite and deal in, among other things, municipal revenue bonds pursuant to the prudential limitations and other conditions set forth in *Citicorp, J.P. Morgan & Co. Incorporated, and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987) as modified by *Order Approving Modifications to Section 20 Orders*, 75 Federal Reserve Bulletin 751 (1989).

Among the conditions to which Norwest is subject pursuant to the *Norwest Order* is that the municipal revenue bonds underwritten by NISI must be rated as investment quality (*i.e.*, in one of the top four categories) by a nationally recognized rating agency. Norwest has requested limited relief from this condition to allow NISI to underwrite issues of municipal revenue bonds that are not rated by a nationally recognized rating agency so long as each issue of unrated bonds does not exceed $7.5 million.

Norwest supports its request for relief by contending that it is not cost effective for municipalities to obtain ratings for smaller issues of municipal revenue bonds. Norwest asserts that NISI's participation in underwriting these unrated municipal revenue bonds will benefit the communities that issue the bonds by providing additional competition in the market for this service. Norwest believes that the systems and procedures that it has in place to evaluate the creditworthiness of these issues should substantially mitigate any risk that may be associated with the underwriting of these bonds.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the request.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 11, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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.

The request may be inspected at the offices of the Board of Governors or the

Federal Reserve Bank of Minneapolis Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480.

Board of Governors of the Federal Reserve System, September 16, 1994.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 94–23373 Filed 9–20–94; 8:45 am]

BILLING CODE 6210–01–F

## Otto Bremer Foundation and Bremer Financial Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

The 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 1994.

**A. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Otto Bremer Foundation and Bremer Financial Corporation*, St. Paul, Minnesota; to engage *de novo* in making, acquiring, and servicing loans and other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y and leasing personal and real property, pursuant to §§ 225.25(b)(5)(i) and (b)(5)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 15, 1994

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 94–23290 Filed 9–20–94; 8:45 am]

BILLING CODE 6210–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### President's Council on Physical Fitness and Sports

**AGENCY:** Office of the Assistant Secretary for Health.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act.

**DATES:** October 25, 1994, 9:30 a.m.

**ADDRESSES:** The White House Conference Center, Truman Room, 3rd Floor, 726 Jackson Place NW., Washington, DC 20500.

**FOR FURTHER INFORMATION CONTACT:** Sandra Perlmutter, Executive Director, President's Council on Physical Fitness and Sports, 701 Pennsylvania Avenue NW., Suite 250, Washington, DC 20004–2608, 202/272–3421.

**SUPPLEMENTARY INFORMATION:** The President's Council on Physical Fitness and Sports operates under Executive Order #12345, as amended, and subsequent orders. The functions of the Council are: (1) To advise the President and the Secretary concerning progress made in carrying out the provisions of the Executive Order and recommending to the President and Secretary, as necessary, actions to accelerate progress; (2) advise the President and the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports actions to extend and improve physical activity programs and services; (3) advise the President and the Secretary on state, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the members of the national program on physical fitness and sports, to report on ongoing Council initiatives, and to plan for future directions.

Dated: September 16, 1994.

**Sandra Perlmutter,**

*Executive Director, President's Council on Physical Fitness and Sports.*

[FR Doc. 94–23364 Filed 9–20–94; 8:45 am]

BILLING CODE 4160–17–M

## Centers for Disease Control and Prevention

### CDC Advisory Committee on the Prevention of HIV Infection; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on the Prevention of HIV Infection.

Times and Dates: 8:30 a.m.–5 p.m., October 11, 1994; 8:30 a.m.–3 p.m., October 12, 1994.

Place: Holiday Inn Atlanta-Decatur Conference Plaza, 130 Clairemont Avenue, Decatur, Georgia 30030.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV prevention efforts including maintaining surveillance of HIV infection and AIDS, the epidemiologic and laboratory study of HIV and AIDS, information/education and risk reduction activities designed to prevent the spread of HIV infection, and other preventive measures that become available.

Matters To Be Discussed: CDC will respond to the recommendations made by the Committee in their report entitled *External Review of CDC's HIV Prevention Strategies.* The Committee will also be updated on current HIV prevention activities. Agenda times are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE., Mailstop E–40, Atlanta, Georgia 30333, telephone (404) 639–2918.

Dated: September 14, 1994.

**William H. Gimson,**

*Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 94–23321 Filed 9–20–94; 8:45 am]

BILLING CODE 4163–18–M

**Food and Drug Administration**

**[Docket No. 94E–0235]**

## Determination of Regulatory Review Period for Purposes of Patent Extension; Semprex™-D Capsules

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Semprex™-D Capsules and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Semprex™-D Capsules. Semprex™-D Capsules (acrivastine and pseudoephedrine hydrochloride) is indicated for relief of symptoms associated with seasonal allergic rhinitis such as sneezing, rhinorrhea, pruritus, lacrimation, and nasal congestion. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Semprex™-D Capsules (U.S. Patent No. 4,650,807) from Burroughs Wellcome Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated July 8, 1994, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Semprex™-D Capsules represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Semprex™-D Capsules is 3,489 days. Of this time, 1,210 days occurred during the testing phase of the regulatory review period, while 2,279 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: September 6, 1984. The Applicant claims August 13, 1984, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 6, 1984, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: December 29, 1987. FDA has verified the applicant's claim that the New Drug Application (NDA) for Semprex™-D Capsules (NDA 19–806) was initially submitted on December 29, 1987.

3. *The date the application was approved*: March 25, 1994. FDA has verified the applicant's claim that NDA 19–806 was approved on March 25, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,469 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before November 21, 1994, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before March 20, 1994, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 1994.

**Stuart L. Nightingale,**

*Associate Commissioner for Health Affairs.*

[FR Doc. 94–23276 Filed 9–20–94; 8:45 am]

BILLING CODE 4160–01–F

**[Docket No. 92N–0371]**

## New Drug Applications; Refusal to File; Change in Schedule of Meetings of the Review Committee

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a change in the procedure that the Center for Drug Evaluation and Research (CDER) uses to review its use of its refusal to file (RTF) procedure, by which it refuses to file new drug applications (NDA's) that are facially deficient under FDA's regulations. Since January 1994, the committee has been meeting bi-monthly rather than quarterly. Because the committee will review all RTF decisions rather than only a few, new drug application (NDA)

applicants will not need to submit requests for review.

FOR FURTHER INFORMATION CONTACT: Janet M. Jones, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6740.

SUPPLEMENTARY INFORMATION: FDA regulations on filing applications, including grounds and procedures for refusals to file, are found in 21 CFR 314.101. In the past, some review divisions in CDER have refused to file applications only where the deficiencies were extreme, e.g., the total omission of a section required by 21 CFR 314.50, or the absence of any study even arguably adequate and well controlled, while others have applied this regulation more broadly.

In the **Federal Register** of May 18, 1993 (58 FR 28983), FDA announced the establishment and first regular meeting of a standing committee in CDER to conduct periodic review of CDER's RTF procedure. CDER established the RTF review committee to periodically review RTF decisions to assess their scientific and procedural quality. The RTF review committee consists of senior CDER officials, a senior official from the Center for Biologics Evaluation and Research, and FDA's Chief Mediator and Ombudsman. The committee reviews, among other things, the consistency of RTF practices across new drug evaluation offices and divisions, the need for additional guidance on NDA content and format, and the need to modify FDA's RTF policy. The committee was established on a 1-year trial basis and scheduled to meet quarterly for that year. The committee has held two pilot meetings and several regular meetings since the publication of that notice. For each of the pilot meetings and for the first two of the regular meetings, FDA invited NDA applicants to use the committee's confidential mechanism to request review of any RTF decision during the preceding 12 months. RTF decisions reviewed by the committee were chosen for review by the Office of the FDA Chief Mediator and Ombudsman through a combination of random selection and selection from among those submitted by NDA applicants for review.

The RTF review committee has decided to change its procedures from those presented in the **Federal Register** of May 18, 1993 (58 FR 28983). Since January 1994, the committee has been meeting every other month (six times a year) and reviews all the RTF decisions that CDER makes, rather than only some of them.

There are two primary reasons for this change. One reason is that the number of applications with RTF decisions each month has decreased over the past year, so that it is feasible for the committee to review all such applications rather than only selected applications. The second reason is that RTF decisions have additional effects related to user fees. Under section 736(a)(1)(D) of the Prescription Drug User Fee Act of 1992 (21 U.S.C. § 379h(a)(1)(D)), FDA is authorized to retain 25 percent of the total user fee assessed for each NDA that is refused for filing. If the agency incorrectly refuses to file an application, the error needs to be promptly identified and corrected, so that the application may be filed and a review initiated, and the retained fees may be returned to the applicant. The review of all RTF decisions on a bimonthly basis will allow the agency to identify incorrect RTF decisions and take corrective measures in a timely manner.

Under this new procedure, NDA applicants will no longer need to submit requests for committee review to the Office of the Chief Mediator and Ombudsman. Applicants may continue to contact that office, however, to discuss concerns regarding refusal to file and other issues, as needed.

The committee believes that this change in its approach to reviewing RTF decisions will facilitate the agency's efforts to promote the timely, efficient, and consistent review of NDA's. After 1 year, the value of the bimonthly committee review of all RTF applications will be assessed.

Because the committee's deliberations will deal with confidential commercial information, the RTF review meetings are closed to the public. Summaries of the committee's deliberations, excluding all such confidential commercial information, will be available from the FDA Chief Mediator and Ombudsman. If, following the committee's review, an RTF decision changes, the reviewing division will notify the applicant of the change.

Dated: September 13, 1994.

**William K. Hubbard,**

*Interim Deputy Commissioner for Policy.*

[FR Doc. 94–23275 Filed 9–20–94; 8:45 am]

BILLING CODE 4160–01–F

## National Institutes of Health

### National Institute of Mental Health; Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Board of Scientific Counselors, NIMH, September 19–20, 1994, Building 36, Room 1B07, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, which was published in the **Federal Register** on August 30, 1994 (59 FR 44743).

The meeting was cancelled due to prior commitments of several members.

Dated: September 15, 1994.

**Margery G. Grubb,**

*Senior Committee Management Specialist, NIH.*

[FR Doc. 94–23310 Filed 9–20–94; 8:45 am]

BILLING CODE 4140–01–M

### National Institute on Aging; Notice of Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting(s):

*Name of Subcommittee:* Biological and Clinical Aging Review Subcommittee A.
*Date:* October 3, 1994.
*Time:* 8:30 a.m. to adjournment.
*Place:* Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
*Contact Person:* Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.
*Purpose/Agenda:* To review and evaluate grant applications.

*Name of Subcommittee:* Biological and Clinical Aging Review Subcommittee B.
*Date:* October 19, 1994.
*Time:* 8:30 a.m. to 4:00 p.m.
*Place:* Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
*Contact Person:* Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892. (301) 496–9666.
*Purpose/Agenda:* To review and evaluate grant applications.

*Name of Subcommittee:* Neuroscience, Behavior and Sociology of Aging Review Subcommittee A.
*Dates:* November 29–30, 1994.
*Time:* November 29—8:00 a.m. to Adjournment on November 30.
*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

*Contact Persons:* Drs. Maria Mannarino or Louise Hsu, Scientific Review Administrators, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.
*Purpose/Agenda:* To review and evaluate grant applications.

*Name of Subcommittee:* Neuroscience, Behavior and Sociology of Aging Review Subcommittee B.
*Date:* November 7–8, 1994.
*Time:* November 7—8:30 a.m. to Adjournment on November 8.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

*Contact Person:* Dr. Walter Spieth, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.

*Purpose/Agenda:* To review and evaluate grant applications.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: September 13, 1994.

**Margery G. Grubb,**

*Senior Committee Management Specialist, NIH.*

[FR Doc. 94–23311 Filed 9–20–94; 8:45 am]

BILLING CODE 4140–01–M

## National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on October 14, 1994. The meeting will take place from 9 a.m. to 11:30 a.m. in Conference Room 7, C–Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of a speaker phone.

The meeting, which will be open to the public from 9 a.m. to 11:15 a.m., is being held to discuss new developments in the field of smell and taste since the National Strategic Research Plan for that area was updated. Attendance by the public which will be limited to the space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 11:15 a.m. to adjournment for the discussion and recommendation of individuals to serve as consultants to the Research Priorities Subcommittee. This discussion could reveal personal information concerning these individuals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Ms. Monica Davies, Executive Director, National Deafness an Other Communication Disorders Advisory Board, Building 31, Room 3C08, National Institutes of Health, Bethesda, Maryland 20892–2320, (301) 402–1129, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact that Executive Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93–173, Biological Research Related to Deafness and Communication Disorders)

Dated: September 14, 1994.

**Susan K. Feldman,**

*Committee Management Officer, NIH.*

[FR Doc. 94–23312 Filed 9–20–94; 8:45 am]

BILLING CODE 4140–01–M

## Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panels (SEPs) meetings:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Biological and Physiological Sciences.
*Date:* October 3, 1994.
*Time:* 2:00 p.m.
*Place:* NIH, Westwood Building, Room 233A Telephone Conference.
*Contact Person:* Dr. Robert Su, Scientific Review Administrator, 5333 Westbard Ave., Room 233A, Bethesda, MD 20892, (301) 594–7320.

*Name of SEP:* Behavioral and Neurosciences.
*Date:* October 6, 1994.
*Time:* 8:00 a.m.
*Place:* Georgetown Holiday Inn, Washington, DC.
*Contact Person:* Ms. Carol Campbell, Scientific Review Admin., 5333 Westbard Ave., Room 306B, Bethesda, MD 20892, (301) 594–7165.

*Name of SEP:* Biological and Physiological Sciences.
*Date:* October 11, 1994.
*Time:* 4:00 p.m.
*Place:* Holiday Inn, Bethesda, MD.
*Contact Person:* Dr. Dennis Leszczynski, Scientific Review Admin., 5333 Westbard Ave., Room 210, Bethesda, MD 20892, (301) 594–7218.

*Name of SEP:* Biological and Physiological Sciences.
*Date:* October 11, 1994.
*Time:* 5:15 p.m.
*Place:* Holiday Inn, Bethesda, MD.
*Contact Person:* Dr. Dennis Leszczynski, Scientific Review Admin., 5333 Westbard Ave., Room 210, Bethesda, MD 20892, (301) 594–7218.

*Name of SEP:* Clinical Sciences.
*Date:* October 20, 1994.
*Time:* 8:30 a.m.
*Place:* Dupont Plaza Hotel, Washington, DC.
*Contact Person:* Dr. H. M. Stiles, Scientific Review Admin., 5333 Westbard Ave., Room 203C, (301) 594–7194.

*Name of SEP:* Behavioral and Neurosciences.
*Date:* October 25, 1994.
*Time:* 2 p.m.
*Place:* NIH, Westwood Bldg., Room 305, Telephone Conference.
*Contact Person:* Dr. Peggy McCardle, Scientific Review Admin., 5333 Westbard Ave., Room 305, Bethesda, MD 20892, (301) 594–7293.

*Name of SEP:* Biological and Physiological Sciences.
*Date:* November 22, 1994.
*Time:* 2:00 p.m.
*Place:* NIH, Westwood Bldg., Room 204, Telephone Conference.
*Contact Person:* Dr. Michael Knecht, Scientific Review Admin., 5333 Westbard Ave., Room 204, Bethesda, MD 20892, (301) 594–7247.

*Purpose/Agenda:* To review Small Business Innovation Research Program grant applications.

*Name of SEP:* Multidisciplinary Sciences.
*Date:* November 2, 1994.
*Time:* 8:00 a.m.
*Place:* Holiday Inn, Chevy Chase, MD.
*Contact Person:* Dr. Donald Schneider, Scientific Review Admin., 5333 Westbard Ave., Room 2A05, Bethesda, MD 20892, (301) 594–7053.

*Name of SEP:* Multidisciplinary Sciences.
*Date:* November 2–24, 1994.
*Time:* 8:00 a.m.
*Place:* Holiday Inn, Chevy Chase, MD.
*Contact Person:* Dr. Donald Schneider, Scientific Review Admin., 5333 Westbard Ave., Room 2A05, Bethesda, MD 20892, (301) 594–7053.

*Name of SEP:* Behavioral and Neurosciences.
*Date:* November 4, 1994.
*Time:* 8:00 a.m.
*Place:* Sheraton City Centre Hotel, Washington, D.C.
*Contact Person:* Dr. Bob Weller, Scientific Review Administrator, 5333 Westbard Ave., Room 307, Bethesda, MD 20892, (301) 594–7340.

*Name of SEP:* Behavioral and Neurosciences.
*Date:* November 9, 1994.
*Time:* 12:30 p.m.
*Place:* Holiday Inn, Chevy Chase, MD.
*Contact Person:* Dr. Herman Teitelbaum, Scientific Review Admin., 5333 Westbard Ave., Room 321, Bethesda, MD 20892, (301) 594–7245.

The meetings will be closed in accordance with the provisions set forth in sec.

552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(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: September 15, 1994.

**Margery G. Grubb,**

*Senior Committee Management Specialist, NIH.*

[FR Doc. 94–23313 Filed 9–20–94; 8:45 am]

BILLING CODE 4140–01–M

## Public Health Service

## National Institutes of Health

### Notice of Listing of Members of the National Institutes of Health's Senior Executive Service Performance Review Board (PRB)

The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, which requires members of performance review boards be appointed to ensure consistency, stability, and objectivity in performance appraisals and requires the appointment of performance review board members be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of Senior Executive Service (SES) members:

Ruth L. Kirschstein, M.D., Chairperson
Frederick C. Walker, Executive Secretary
Duane F. Alexander, M.D.
Wendy Baldwin, Ph.D.
Henning Birkedal-Hansen, D.D.S., Ph.D.
Samuel Broder, M.D.
M. J. Brownstein, M.D., Ph.D.
Marvin Cassman, Ph.D.
Bruce A. Chabner, M.D.
Philip S. Chen, Jr., Ph.D.
Francis S. Collins, M.D.
Rex W. Cowdry, M.D.
John W. Diggs, Ph.D.
Stephen A. Ficca
George J. Galasso, Ph.D.
John I. Gallin, M.D.
Phillip Gorden, M.D.
Enoch Gordis, M.D.
Michael M. Gottesman, M.D.
Patricia A. Grady, Ph.D.
Jerome G. Green, M.D.
Peter Greenwald, M.D.
Zach W. Hall, Ph.D.
Richard J. Hodes, M.D.
Suzanne S. Hurd, Ph.D.
Dushanka Kleinman, D.D.S., M.ScD.
Irwin J. Kopin, M.D.
Edward D. Korn, Ph.D.
Carl Kupfer, M.D.
Leamon M. Lee, Ph.D.
Claude J. Lenfant, M.D.
Alan I. Leshner, Ph.D.
Arthur S. Levine, M.D.
Donald A. B. Lindberg, M.D.
Markku Linnoila, M.D.
David Lipman, M.D.
John D. Mahoney
Thomas Malone, Ph.D.
Audrey Manley, M.D.
George R. Martin, Ph.D.
John A. McLachlan, Ph.D.
Henry Metzger, M.D.
Jay Moskowitz, Ph.D.
Carolyn L. Murdaugh, Ph.D.
Franklin A. Neva, M.D.
Robert Nussenblatt, M.D.
Kenneth Olden, Ph.D.
Alan S. Rabson, M.D.
Jerry M. Rice, Ph.D.
David Rodbard, M.D.
Philip E. Schambra, Ph.D.
Lawrence E. Shulman, M.D.
James B. Snow, Jr., M.D.
Allen M. Spiegel, M.D.
Jeffrey M. Trent, Ph.D.
George R. Uhl, M.D., Ph.D.
Judith L. Vaitukaitis, M.D.
Richard Wyatt, Ph.D.

For further information about the NIH Performance Review Board, contact the Office of Human Resources, Division of Senior Systems, National Institutes of Health, Executive Plaza South, Room 100, 6120 Executive Plaza Boulevard, Rockville, MD 20852, telephone (301) 496–1443 (not a toll-free number).

Dated: September 12, 1994.

**Ruth L. Kirschstein, M.D.,**

*Deputy Director, NIH.*

[FR Doc. 94–23314 Filed 9–20–94; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Assistant Secretary for Public and Indian Housing

**[Docket No. N–94–3803; FR 3713–C–02]**

### Fund Availability (NOFA) for Fiscal Year 1994 for the Family Unification Program; Correction

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

**ACTION:** Notice of fund availability (NOFA) for fiscal year (FY) 1994 for the Family Unification Program; Correction.

**SUMMARY:** On August 29, 1994 (59 FR 44542), the Department published a NOFA to announce the availability of FY 94 budget authority for section 8 rental certificates under the Family Unification Program. This document makes a correction to Section II(D) of the NOFA, which concerns the selection process.

**DATES:** The due date for submission of applications in response to this NOFA is set forth in the August 29, 1994 **Federal Register** notice published at 59 FR 44542. This document does not change this due date.

**FOR FURTHER INFORMATION CONTACT:** Gerald J. Benoit, Director, Operations Branch, Rental Assistance Division, Office of Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone number (202) 708–0477 (voice), or (202) 708–4594 (TDD). (These telephone numbers are not toll-free).

**SUPPLEMENTARY INFORMATION:** On August 29, 1994 (59 FR 44542), the Department published a NOFA to announce the availability of FY 94 budget authority for section 8 rental certificates under the Family Unification Program. The purpose of the Family Unification program is to provide housing assistance to families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

Section II(D) of the August 29, 1994 NOFA, which addresses the selection process, inadvertently omitted a sentence that advises of action that the Department may take in order to achieve geographic diversity. This document corrects Section II(D) of the NOFA to include this sentence.

Accordingly, the following correction is made to FR 94–21166, published on August 29, 1994, at 59 FR 44542:

Section II—[Corrected]

1. On page 44545, in the first column, under subsection (D) entitled "Selection Process," the second paragraph under this subsection (the paragraph which follows the six numbered items) is corrected to add a sentence at the end of this paragraph to read as follows:

(D) Selection Process

* * * * *

Headquarters will select eligible HAs to be funded based on a lottery. All HAs identified by the HUD Offices as meeting the Threshold Criteria

identified in the NOFA will be eligible for the lottery selection process. As HAs are selected, the costs of funding the applications will be counted against the total funds available for the Family Unification program. In order to achieve a geographic diversity, HUD Headquarters will limit the number of applications selected for funding under the lottery for any State to fifteen percent of the budget authority made available under this NOFA.

* * * * *

Dated: September 15, 1994.

**Michael B. Janis,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. 94–23303 Filed 9–20–94; 8:45 am]

BILLING CODE 4210–33–M

## Office of the Secretary

**[Docket No. D–94 1070; FR–3789–D–01]**

## Delegation of Authority to the Acting Deputy Secretary

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of Delegation of Authority.

**SUMMARY:** The Secretary of Housing and Urban Development is delegating to the Acting Deputy Secretary of Housing and Urban Development, Dwight P. Robinson, the authority to exercise, in the absence of the Secretary, all the power and authority vested in, delegated or assigned to the Secretary of Housing and Urban Development, with the exception of the power to sue and be sued.

**EFFECTIVE DATE:** September 19, 1994.

**FOR FURTHER INFORMATION CONTACT:** Sam E. Hutchinson, Associate General Counsel for Human Resources Law, Office of General Counsel, Department of Housing and Urban Development, Room 10248, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2088. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Under Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), the Secretary of Housing and Urban Development may delegate any of the Secretary's functions, powers and duties to such officers and employees of the Department as the Secretary may designate, and may authorize successive redelegations of such functions, powers and duties as determined to be necessary or appropriate. In the delegation of authority issued today, the Secretary is delegating to the Acting Deputy Secretary of Housing and Urban Development, Dwight P. Robinson, the authority to exercise, in the Secretary's absence, all the power and authority vested in, delegated or assigned to the Secretary of Housing and Urban Development, with the exception of the power to sue and be sued. The authorization to act under this Order is subject to the 120-day limitation of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 120 days.

Accordingly, the Secretary delegates as follows:

*Section A. Authority Delegated*

The Acting Deputy Secretary of Housing and Urban Development, Dwight P. Robinson, is hereby authorized, in the absence of the Secretary, to exercise all the power and authority vested in, delegated or assigned to the Secretary of Housing and Urban Development.

*Section B. Authority Excepted*

There is excepted from the authority delegated under Section A the authority to sue and be sued.

*Section C. Delegation of Concurrent Authority Revoked*

The Delegation of Concurrent Authority to then Deputy Secretary of Housing and Urban Development, Terrence R. Duvernay published in the Federal Register on August 31, 1993, at 58 FR 45911, is hereby revoked.

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 19, 1994.

**Henry G. Cisneros,**

*Secretary of Housing and Urban Development.*

[FR Doc. 94–23474 Filed 9–20–94; 8:45 am]

BILLING CODE 4210–32–M

## DEPARTMENT OF THE INTERIOR

## Office of the Secretary

**[FES 94–29]**

## Final Environmental Impact Statement (EIS) for the Proposed Institute of Marine Science Infrastructure Improvement Project Located in Seward, AK

**AGENCY:** Office of the Secretary, Interior (DOI).

**ACTION:** Notice of Availability of the Final Environmental Impact Statement for the Proposed Institute of Marine Science Infrastructure Improvement Project.

**SUMMARY:** The DOI, as lead Federal Agency on behalf of the Exxon Valdez Oil Spill (EVOS) Trustee Council, announces the availability of the Final EIS for the Proposed Institute of Marine Science (IMS) Infrastructure Improvement Project. Single copies of the Final EIS or the Final EIS summary can be obtained from the Oil Spill Public Information Center, 645 G Street, Anchorage, Alaska 99501. Telephone Numbers: (907) 278–8008, (800) 478–7745 (within Alaska), or (800) 283–7745 (outside Alaska). Copies of the Final EIS have been sent to public libraries in Seward, Homer, Kodiak, Valdez, Cordova, Kenai, Anchorage, Fairbanks, and Juneau, among others, as well as the DOI Library in Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Information about the EIS can be obtained from Nancy K. Swanton, DOI EIS Project Manager, 949 East 36th Avenue, Anchorage, Alaska 99508–4302. Telephone Numbers: (907) 271–6622 (voice) or (907) 271–6507 (fax).

**SUPPLEMENTARY INFORMATION:**

### A. Introduction

The DOI, as lead Federal Agency on behalf of the EVOS Trustee Council, has prepared a Final EIS on a proposal to construct infrastructure improvements to the IMS in Seward, Alaska. The EVOS Trustee Council is considering providing funding for a portion of this project. The Council is comprised of the designees of the Administrator, National Oceanic and Atmospheric Administration; the Secretary of Agriculture; the Secretary of Interior; and the Commissioner of the Alaska Department of Fish and Game; the Commissioner of the Alaska Department of Environmental Conservation; and the Alaska Attorney General. The EVOS Trustee Council is responsible for decisions relating to the assessment of injuries, uses of the joint restoration funds, and all restoration activities relating to the proposed project.

In accordance with the National Environmental Policy Act of 1969, the Final EIS presents analyses of the environmental—including social and economic—effects that would be anticipated if the proposed improvements to the IMS in Seward were to occur as presently envisioned. In addition, the EIS assesses the effects of an alternative to the proposal that would eliminate the public education and visitation component, and construct only a research and wildlife rehabilitation component. Lastly, a no

action alternative is assessed to determine the effects on the environment should the proposed improvements not be made.

**B. The Proposed IMS Infrastructure Improvement Project**

The EVOS Trustee Council is proposing to improve the existing infrastructure at the University of Alaska-Fairbanks IMS in Seward, Alaska, to enhance the EVOS Trustee Council's capabilities to study marine mammals, marine birds, and the ecosystem injured by the Exxon Valdez oil spill. The improvements are intended to help focus and carry out a long-term research and monitoring program for the EVOS area as part of an overall restoration plan. The project would be constructed adjacent to the existing campus of the IMS Seward Marine Center, and would have two components: (1) a research and wildlife rehabilitation component and (2) a public education and visitation component.

The research and wildlife rehabilitation component would consist of approximately 22,000 square feet of interior space comprised of wet and dry laboratories, staff offices, and a library for studies and rehabilitation of marine mammals, marine birds, and other wildlife. There also would be approximately 46,000 square feet of exterior space containing outdoor research habitat, tanks, and pools for pinnipeds, sea otters, and marine bird species. A 50-space, 37,000 square foot, parking lot for staff vehicles would be constructed adjacent to the existing IMS Rae Building parking lot. A research vessel and submersible may be acquired for research purposes.

The public education and visitation component would include approximately 20,000 square feet of additional interior space to promote public awareness of the marine environment. It would function in concert with, and in support of, the research and wildlife rehabilitation component. This component would include exhibits, interpretive displays, and public areas. A 166-space, 90,000 square foot, parking lot for visitors would be built adjacent to the education and visitor component. No joint EVOS restoration funds would be involved in the construction or maintenance of the public education and visitation component.

The two components would share approximately 27,000 square feet of interior building-support space, including the life support system and the facility's mechanical, administrative, and curatorial functions.

Funding for the proposed project would come, in large part, from EVOS funds. Overall, the total project capital budget is anticipated to be approximately $47.5 million, of which approximately $37.5 million would come from EVOS funds. Twelve and one-half million dollars of State EVOS restitution funds were appropriated by the Alaska Legislature in 1993 to the City of Seward for the planning, design, and construction of the proposed project. In addition, approximately $25 million of EVOS monies have been requested to fund the research and wildlife rehabilitation component of the proposed project. Lastly, it is anticipated that approximately $10 million would be raised privately to fund the public education and visitation component of the proposed project. Revenue from public education and visitation would be used to help offset the operational costs of all of the proposed improvements.

**C. The NEPA Process**

On March 9, 1994, the DOI, as lead Federal Agency on behalf of the EVOS Trustee Council, published a Notice of Intent to prepare an EIS on the Proposed IMS Infrastructure Improvement Project (59 FR 11082–1183). Scoping commenced on that date. Scoping meetings were held in Seward and Anchorage, Alaska, on March 22 and 24, 1994, respectively. Public notices announcing these meetings and requesting comments were published in EVOS-area newspapers; and a scoping newsletter was distributed widely throughout the EVOS area and beyond. In addition to comments and suggestions received at the scoping meetings, over 300 written responses were received. These comments were evaluated by the DOI and form the basis for the topics, issues, and alternatives addressed in the EIS.

A 45-day public comment period on the Draft EIS followed the June 24, 1994, publication of the Environmental Protection Agency's (EPA) Notice of Availability in the **Federal Register** (59 FR 32697). The public comment period ended on August 8, 1994. Public hearings on the Draft EIS were held in Seward and Anchorage, Alaska, respectively, on July 26 and 28, 1994. A total of four individuals presented testimony at these hearings. A total of 31 comment letters were received on the Draft EIS—eight from Federal Agencies, four from state agencies, one from the City of Seward, three from groups or organizations, and 15 from individuals. Most of the comments on the Draft EIS addressed concerns regarding: (1) traffic and transportation, (2) quality of life in and near Seward, (3) recreation resources, (4) archaeological and historic resources, (5) the possible Alaska Marine Highway ferry relocation, and (6) the feasibility of the proposed project. Comments regarding project propriety have been referred to the EVOS Trustee Council for its consideration. Although the use of EVOS settlement funds is a significant issue to be addressed with public input, it is not an environmental issue and, thus, is not analyzed in the EIS. All written and oral comments on the Draft EIS were reviewed, and responses were prepared for 231 comments. The Final EIS reflects revisions made as a result of public comments received. The effect levels predicted in the Draft EIS did not change for the Final EIS.

A Record of Decision will be issued no earlier than 30 days after EPA's Notice of Availability for the Final EIS appears in the **Federal Register**.

Dated: September 16, 1994.

**George T. Frampton, Jr.,**

*Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.*

[FR Doc. 94–23367 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–MR–P

## Bureau of Land Management

**[AK–963–4230–05–P; AA–11157]**

## Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(2), and Sec. 1416 of the Alaska National Interest Lands Conservation Act of December 2, 1980, 43 U.S.C. 1602, will be issued to Tanalian Inc. for certain lands within T 1 N., R. 29 W., Seward Meridian, Alaska, containing approximately 1,963 acres. The lands involved are in the vicinity of Port Alsworth, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until October 21, 1994 to file an appeal. However, parties receiving

service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

**Katherine L. Flippen,**

*Land Law Examiner, Branch of Southwest Adjudication.*

[FR Doc. 94–23323 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–JA–M

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**[CO–920–94–4120–03; COC 57187]**

## Colorado; Notice of Invitation for Coal Exploration License Application, Cyprus Empire Corporation

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Cyprus Empire Corporation in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Moffat County, Colorado:

T. 6 N., R. 91 W., 6th P.M.
Sec. 5, lots 5, 11, 12, and 16;
Sec. 6, lots 20 to 23, inclusive;
Sec. 7, lots 17 to 20, inclusive;
Sec. 8, lots 9 to 12, inclusive;
Sec. 17, lot 4;
Sec. 18, lots 16, 17, and 19;
Sec. 19, lots 5 to 7, inclusive;
Sec. 30, lots 5 and 6.
T. 6 N., R. 92 W., 6th P.M.
Sec. 1, N½S½;
Sec. 2, N½S½;
Sec. 3, S½S½;
Sec. 11, S½S½;
Sec. 12, N½NE¼, W½NW¼, S½SW¼, and SE¼SE¼;
Sec. 13, E½SW½;
Sec. 14, NE¼NE¼, and NE¼SW¼;
Sec. 23, E½E½;
Sec. 24, N½NW¼, and E½NE¼.

The area described contains approximately 2,528.68 acres.

The application for coal exploration license is available for public inspection during normal business hours under serial number COC 57187 at the Bureau of Land Management (BLM), Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Written Notice of Intent to Participate should be addressed to the attention of the following persons and must be received by them within 30 days after publication of the Notice of Invitation in the **Federal Register**:

James E. Edwards, Jr., Management Team, Division of Mineral Resources, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215, and
Marcus Middleton, Environmental Engineer, Cyprus Empire Corporation, P.O. Box 68, Craig, Colorado 81626

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate.

Dated: September 15, 1994.

**James D. Crisp,**

*Management Team, Resource Services.*

[FR Doc. 94–23442 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–JB–M

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**[AZ–020–00–4333–04; AZA–25477, 25478, 25481, 25488, 25491, 25496]**

## Preparation of Several Wilderness Management Plans and Associated Environmental Documents and Invitation To Participate in the Identification of Issues; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Correction.

**SUMMARY:** In notice document 94–22392 beginning on page 46866 in the issue of Monday, September 12, 1994, make the following correction:

On page 46866, in the third column, in the fourth line from the bottom, the date previously published in the **Federal Register** for accepting written comments was October 15, 1994. This date should be changed to November 6, 1994.

Dated: September 15, 1994.

**Gordon L. Cheniae,**

*District Manager.*

[FR Doc. 94–23324 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–32–M

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**[CA–010–4410–02]**

## Extension of Comment Period for Draft; Caliente Resource Management Plan Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Amendment.

**SUMMARY:** The notice of availability published on June 27, 1994, in the **Federal Register,** Volume 59, No. 122 on page 33004, is hereby amended to reflect an extension of the comment period until October 28, 1994.

**DATES:** Written comments on the draft RMP/DEIS will be accepted until October 28, 1994.

**ADDRESSES:** Comments should be sent to James Wesley Abbott, Area Manager, Caliente Resource Area, Bureau of Land Management, 3801 Pegasus Drive, Bakersfield, CA 93308.

**FOR FURTHER INFORMATION CONTACT:** Steve Larson, Resource Staff Chief, Caliente Resource Area; phone (805) 391–6099.

Dated: September 9, 1994.

**James Wesley Abbott,**

*Area Manager, Caliente Resource Area.*

[FR Doc. 94–23291 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–40–M

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**[AK–963–4230–05–P]**

## Notice for Publication; AA–19429; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Bristol Bay Native Corporation for approximately 13,651 acres. The lands involved are located in T. 12 S., R. 50 W., Seward Meridian, in the vicinity of the Native village of Portage Creek, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until October 21, 1994, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

**Katherine L. Flippen,**

*Land Law Examiner, Branch of Southwest Adjudication.*

[FR Doc. 94–23322 Filed 9–20–94; 8:45 am]

BILLING CODE 4310–JA–P

[CA-050-01-4333-24]

## Closure and Restriction Orders; Shasta and Butte Counties, CA

**AGENCY:** Bureau of Land Management (BLM), Redding Resource Area, Ukiah District, California.

**ACTION:** Establishment of closure and restriction orders on public lands located within Shasta and Butte counties.

**SUMMARY:** Persons are restricted from camping, firearm shooting, and operating off-road vehicles on certain public lands located within the Horsetown/Clear Creek Nature Preserve within Shasta County, and the Upper Ridge Nature Preserve within Butte County. The restrictions are authorized under 43 CFR 8364 and are required in order to protect human and natural resources located within the two regions. The restrictions apply to public lands within the following recreation areas:

**Horsetown/Clear Creek Nature Preserve**

T. 30 N., R. 5 W.,
Section 6: Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼ (all).
Section 5: Lot 4 (NW¼NW¼).
T. 31 N., R. 5 W.,
Section 31: All;
Section 32: W½.
T. 30 N., R. 6 W.,
Section 1: Lots 1 & 2 (NE¼), Lots 1 & 2 (NW¼), N½S½ (N½,N½S½).
T. 31 N., R. 6 W.,
Section 36: All, except MS 307.

**Upper Ridge Nature Preserve**

T. 23 N., R. 3 E.,
Section 35: NW¼NE¼, N½NW¼.

**SUPPLEMENTARY INFORMATION:** Redding Resource Area's, Resource Management Plan (RMP) identifies overall objectives and provides broad direction for public land management within the Redding Resource Area. The RMP directs BLM to maintain semi-primitive recreation opportunities in the Upper Ridge Nature Preserve. The RMP also directs BLM to enhance non-motorized recreation opportunities by establishing a greenway along Clear Creek within the Horsetown/Clear Creek Nature Preserve. Both recreation areas are being managed by cooperative stewardship groups.

The camping, firearm shooting and off-road vehicles riding closures are necessary to protect human and natural resources within the fragile recreation areas. Camping is defined as overnight occupancy of the public lands. Possession or use of tents, vehicles, or other shelter is not required to meet the definition of camping under this order. Firearm shooting is defined as the discharge of a weapon by any person Off-road vehicle driving is defined as the operation of any motorized vehicle (excluding motorized wheelchairs) in any area other than established and signed parking areas and roads.

The closure orders are applicable throughout the entire year. Individuals or groups may be permitted to camp on public lands within the two recreation areas if they are conducting work in connection with the stewardship groups and have authorization from BLM. BLM employees conducting field work are excluded from the off-road vehicle closure as are other individuals conducting work authorized by BLM. Private landowners with inholdings encompassed by the Horsetown/Clear Creek Nature Preserve and/or mining claimants may be given authorization to travel over existing roads located on public lands.

**DATES:** This closure and restriction order shall become effective October 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Area Manager, Redding Resource Area Office, 355 Hemsted Drive, Redding, California, 96002.

**Mark T. Morse,**

*Area Manager.*

[FR Doc. 94-23340 Filed 9-20-94; 8:45 am]

BILLING CODE 4310-40-M

[WY-920-41-5700; WYW128681]

## Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Dated: September 8, 1994.

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW128681 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of the **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW128681 effective March 1, 1994, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

**Phyllis Alston,**

*Acting Supervisory Land Law Examiner.*

[FR Doc. 94-23286 Filed 9-20-94; 8:45 am]

BILLING CODE 4310-22-M

[CA-050-04-4333-04]

## Samoa Dunes Recreation Area Restriction Order

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given related to the emergency use restriction of Bureau of Land Management (BLM) administered lands in accordance with regulations contained in 43 CFR 8364.1 (a). This action affects approximately 300 acres of public land comprising the Samoa Dunes Recreation Area (T5N, R1W, Section 31; T4N, R1W, Section 6, Humboldt Base & Meridian). These public lands will be closed to all vehicle use ½ hour following sunset to ½ hour after sunrise. Employees, agents and permittees of the BLM may be exempt from this restriction as determined by the authorized officer.

**DATES:** This restriction order will be effective immediately following the installation of an entrance gate and posting of signs.

**ADDRESSES:** Maps and supporting documentation of the area affected are available for review at the following location: Bureau of Land Management, Arcata Resource Area, 1125 16th Street, Room 219, Arcata, CA 95521.

**FOR FURTHER INFORMATION CONTACT:** Lynda J. Roush, Area Manager at the Arcata address given above. Telephone: (707) 822-7648.

**SUPPLEMENTARY INFORMATION:** The purpose of restricting vehicle use at night in this particular area is to protect persons, property and public land and resources. During the past year, there has been a significant increase in vandalism, theft of property and other illegal activities during the evening and early morning hours, all of which have been associated with the use of vehicles. Restricting vehicle use to only daytime hours will substantially reduce these illegal activities from occurring.

Dated: September 7, 1994.

**Lynda J. Roush,**

*Area Manager.*

[FR Doc. 94-23341 Filed 9-20-94; 8:45 am]

BILLING CODE 4310-40-M

[WY-3110-10-K004; WYW 122407]

## Notice of Conveyance and Opening Order; Wyoming

**AGENCY:** Bureau of Land Management, (Interior).

**ACTION:** Notice of exchange of public land in Sweetwater County for State land in Sweetwater and Fremont Counties, and order providing for opening of public land.

**SUMMARY:** This notice advises the public of completion of an exchange of land between the United States, Bureau of Land Management, and the State of Wyoming under the authority of Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The order opens the land acquired by the United States to the operation of the public land and mineral laws to the extent that it is available under the Bureau of Land Management's Interim Management Policy and Guidelines for Lands Under Wilderness Review.

**EFFECTIVE DATE:** September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Tamara Gertsch, BLM Wyoming State Office, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82001, 307-775-6115.

**SUPPLEMENTARY INFORMATION:**

1. The following Federal land and minerals have been conveyed to the State of Wyoming:

**Sixth Principal Meridian**

T. 26 N., R. 98 W.,
Sec. 29, all; (minerals only)
Sec. 31, lots 1, 2, 3, 4, and E½, E½W½. (surface and minerals)

The land described contains 1,286.12 acres.

The above described land in addition to other land was segregated from appropriation under the mining laws by publication of a Notice of Intent to Evaluate an Exchange Proposal in the **Federal Register** on July 27, 1992, at (57 FR 33207).

2. In exchange for the land described in paragraph 1, the United States acquired the following non-Federal land from the State of Wyoming:

**Sixth Principal Meridian**

T. 26 N., R. 99 W.,
Sec. 16, all; (minerals only).
T. 27 N., R. 100 W.,
Sec. 36, all; (surface and minerals).

The land described contains 1,280.00 acres.

3. The fair market value of the selected Federal lands is $38,042.00. The fair market value of the offered State land is $37,760.00, creating a value discrepancy of $282.00. Pursuant to Section 9 of the Federal Land Exchange Facilitation Act of 1988 (Public Law 100-409), the authorized officer has waived cash equalization payment by the State of Wyoming.

4. At 9 a.m. on September 21, 1994, the land described in paragraph 2 shall be open to the operation of the public land and mineral laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law to the extent that the land is available under the Bureau of Land Management's Interim Management Policy and Guidelines for Lands Under Wilderness Review. All valid applications received at or prior to 9 a.m. on September 21, 1994, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: September 9, 1994.

**John A. Naylor,**

*Chief, Branch of Land Resources.*

[FR Doc. 94-23287 Filed 9-20-94; 8:45 am]

BILLING CODE 4310-22-M

## Geological Survey

### Interagency Advisory Committee on Water Data; Intergovernmental Task Force on Monitoring Water Quality

**AGENCY:** U.S. Geological Survey, U.S. Department of the Interior.

**ACTION:** Notice of the availability for public review and comment of the draft final report prepared by the Intergovernmental Task Force on Monitoring Water Quality (ITFM).

**SUMMARY:** Notice is hereby given of the opportunity for the public to review and comment on the draft final report of the ITFM. The title of the draft report is "The Nationwide Strategy for Improving Water-Quality Monitoring." The report is available by request to the address below.

**DATES:** The public review and comment period extends through December 1, 1994.

**ADDRESSES:** Copies of the report can be obtained by writing the Office of Water Data Coordination, U.S. Geological Survey, 417 National Center, Reston, Virginia 22092, or by telephoning (703) 648-5023. Review comments should be sent to the Executive Secretary, ITFM, at the same address.

**FOR FURTHER INFORMATION CONTACT:** Nancy Lopez, Chief, Office of Water Data Coordination, USGS, at the above address or by telephoning (703) 648-5014. Also, for information about the ITFM and the final draft report, you may contact the chairperson of ITFM Elizabeth Fellows at (202) 260-7062. Ms. Fellows is the Chief, Monitoring Branch; Office of Wetlands, Oceans, and Watersheds; Office of Water; U.S. Environmental Protection Agency.

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) established in Memorandum No. 92-01, dated December 10, 1991, the requirements to conduct a nationwide review and evaluation of water-quality monitoring and to recommend needed improvements. The ITFM is a partnership of representatives from Federal, State, Native American, and interstate governmental organizations. Working since January 1992 in consultation with representatives of other public and private organizations, the ITFM is developing an integrated, nationwide, voluntary strategy for water-quality monitoring. The proposed strategy and associated recommendations to improve water-quality monitoring are presented in the draft final report that is now available for review. Water resources considered in the strategy include surface water and ground water, near-coastal waters, associated aquatic communities and habitats, wetlands, and sediments. The five general purposes of water-quality monitoring identified in the report include characterizing status and trends, identifying and ranking in order of priority existing and emerging problems, designing and implementing programs and projects, evaluating program success and project compliance, and responding to emergencies. The scope of the ITFM proposals addresses physical, chemical (including toxicological), and biological (including habitat and ecological) aspects of water-quality monitoring. The monitoring functions considered in the strategy include the full range of activities from identifying monitoring objectives, planning and designing monitoring programs, conducting field sampling and laboratory analysis, interpreting and reporting monitoring results, to evaluating the effectiveness of monitoring efforts. The ITFM will complete the report by January 1995, and will distribute copies to the OMB, Federal agencies in the Executive Branch, Congress, Governors and others as requested or as appropriate.

**P. Patrick Leahy,**

*Acting Chief Hydrologist.*

[FR Doc. 94-23283 Filed 9-20-94; 8:45 am]

BILLING CODE 4310-31-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–360]

### Certain Devices for Connecting Computers via Telephone Lines; Notice of Request for Additional Written Submissions on the Scope of a Proposed Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission seeks additional written submissions on the scope of a proposed exclusion order that may be issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436. Telephone: (202) 205–3113.

SUPPLEMENTARY INFORMATION: Farallon Computing, Inc. ("Farallon") filed a complaint on October 12, 1993, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), alleging that certain respondents had violated section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain devices for connecting computers via telephone lines. The Commission published a notice of investigation in the **Federal Register** on November 17, 1993 (58 FR 60671).

On June 28, 1994, the Commission determined not to review a final initial determination issued by the presiding administrative law judge finding a violation of section 337 in this investigation. The Commission requested written submissions on the issues of remedy, the public interest, and bonding. See 59 FR 34862–63 (July 7, 1994). Both complainant Farallon and the Commission investigative attorney proposed that the Commission issue a general exclusion order that "excluded from entry into the United States," devices for connecting computers via telephone lines that are covered by claims 10, 18, or 20 of U.S. Letters Patent 5,003,579, for the remaining term of the patent, except under license of the patent owner or as provided by law.

In connection with recent deliberations concerning the scope of the exclusion order issued in 1984 in Inv. Nos. 337–TA–148/169, Certain Processes for the Manufacture of Skinless Sausage Casings and Resulting Product, the Commission became aware that the U.S. Customs Service interprets the term "exclusion from entry" differently from a majority of the Commission. The Commission therefore wishes to avoid any ambiguity inherent in the use of this term by stating more precisely in any exclusion order that may be issued exactly what is and is not covered by the order.

**Written Submissions**

The parties to the investigation, interested government agencies, in particular the U.S. Customs Service, and any other interested persons are encouraged to file written submissions on the scope of the proposed exclusion order and in particular on the use of the terms "exclusion from entry" and "entry." Such written submissions must be filed no later than the close of business on Monday, October 3, 1994.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.58).

Copies of Farallon's and the Commission investigative attorney's proposed exclusion orders 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, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: September 13, 1994.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 94–23361 Filed 9–20–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–349]

### Certain Diltiazem Hydrochloride and Diltiazem Preparations; Notice of Designation of Additional Commission Investigative Attorney

Notice is hereby given that, as of this date, John M. Whealan, Esq. and Juan S. Cockburn, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-cited investigation instead of John M. Whealan, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: September 9, 1994.

**Lynn I. Levine,**

*Director, Office of Unfair Import Investigations.*

[FR Doc. 94–23362 Filed 9–20–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 1205–3]

### Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (Addendum)

AGENCY: United States International Trade Commission.

ACTION: Re-opening of investigation: request for comments on draft addendum to the Commission's report on investigation No. 1205–3 of August 24, 1993.

EFFECTIVE DATE: September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (telephone 202–205–2592) or Holm J. Kappler, Deputy Director (O/TA&TA) (202–205–2598), U.S. International Trade Commission, Washington, DC 20436.

**Background and Scope of Investigation**

The Commission has reopened investigation No. 1205–3, *Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988* to address (1) the non-acceptance by contracting parties to the Harmonized System Convention of certain proposed amendments to the Harmonized System nomenclature and (2) changes in the

tariff treatment accorded by the U.S. Customs Service to certain other products covered by the Commission's August 1993 report on this investigation.

Section 1205 (19 U.S.C. 3005) directs the Commission to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and to recommend modifications of the HTS to the President (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System or HS) are recommended by the Customs Co-operation Council (CCC) for adoption and (2) as other circumstances warrant.

In July 1993, the CCC recommended certain amendments to the nomenclature of the international Harmonized System, in accordance with Article 16 of the Harmonized System Convention. The Commission's report on investigation No. 1205–3 addressed the CCC recommended amendments. However, since the issuance of the Commission's report, a number of HS contracting parties have entered objections with the CCC with respect to certain of the proposed amendments to the HS Convention. As a result, the CCC withdrew those amendments from its final recommendation. The modifications in the recommended amendments to the HS Convention will necessitate conforming changes in the Commission's recommendations made in its report of August 1993.

In addition, the Commission has received further information concerning the tariff treatment accorded by the U.S. Customs Service to certain other products covered by the August 1993 report. This additional information and certain technical corrections should also be reflected in the Commission's report.

For these reasons, the Commission has decided to re-open its investigation in this matter for the purpose of issuing an addendum to its report on investigation No. 1205–3 with respect to the matters described above. The Commission's August 1993 report on investigation No. 1205–3 (USITC Publication 2673) and the addendum proposed to be appended thereto are available from the Office of the Secretary, Room 112, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 (telephone (202) 205–2000).

The majority of the proposed modifications to the Commission's report result from the non-acceptance by the contracting parties of certain proposed amendments to the Harmonized System nomenclature and from technical and editorial amendments appearing in the final CCC recommendation. These amendments principally concerned:

—subdivision of refined petroleum products under heading 27.10,
—revision of the subheadings for oxygen-function amino compounds under heading 29.22,
—subdivision of the provision for acrylic polymers under subheading 3906.90,
—modification of the chapter 61 and 62 notes concerning the definition of ensembles,
—creation of new subdivisions for high-definition television apparatus under headings 85.28 and 85.40, and
—transfer of certain optical fiber cables from heading 85.44 to heading 90.01.

Other proposed modifications to the Commission's report concern the classification of:

—snowboard boots,
—still image video cameras,
—power supplies for automatic data processing machines, and
—cordless handset telephones.

The Commission must solicit, and give consideration to, the views of interested Federal agencies and the public before proposing recommendations to the HTS under section 1205. Further, the Commission's report to the President must present its recommendations, summarize the information on which its recommendations are based, and provide a statement of the probable economic effects of recommended changes on any industry in the United States. A copy of all written comments received from Federal agencies and a copy (or Commission-prepared summary) of the views of other interested parties must also be included.

Pursuant to section 1206 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3006), the President may proclaim modifications to the HTS (on the basis of recommendations by the Commission under section 1205) if he determines that the modifications are in conformity with U.S. obligations under the HS Convention and do not run counter to the U.S. economic interest. The President may proclaim such modifications only after the expiration of a 60 legislative day lay-over period beginning on the date he submits a report to the House Ways and Means Committee and the Senate Finance Committee that sets forth the proposed modifications and the reasons therefor. Modifications proclaimed by the President may not become effective before the 15th day after the proclamation is published in the **Federal Register**.

Notice of institution of the original investigation and scheduling of a hearing was published in the **Federal Register** of May 20, 1993 (58 F.R. 29433).

**Written Submissions**

Interested parties, including other Federal agencies, are invited to submit written statements concerning the subject of the draft addendum. Each statement must be submitted by not later than October 28, 1994, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: September 13, 1994.
By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 94–23363 Filed 9–20–94; 8:45 am]
BILLING CODE 7020–02–P

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 31922 (Sub-No. 1)]**

### Wisconsin Central Ltd.—Purchase Exemption—Soo Line Railroad Company Line Between Superior and Ladysmith, WI

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice seeking comments on the issue of whether employees affected by a purchase transaction may have test period averages (TPAs).[1]

[1] Test period average is defined as all compensation received by the employee and all time for which he was paid for the 12-month period immediately preceding the date of his displacement divided by 12. The TPA produces a monthly average compensation and average monthly time for which the employee was paid.

**SUMMARY:** The Commission is considering a request by the Brotherhood of Maintenance of Way Employees (BMWE) that the Commission interpret its labor conditions as requiring a railroad employer to furnish upon request TPAs to employees affected by the sale of a rail line on which the employees work. Comments are invited on the issue.

**DATES:** Any person interested in participating in this proceeding as a party of record by filing and receiving written comments must file a notice of intent to do so by October 3, 1994. We will issue a service list of the parties of record shortly thereafter. Petitioners will have 10 days after service of the service list to serve each party on the list with a copy of the petition. Initial written comments must be filed within 30 days after service of the service list. All parties will have 50 days after service of the service list to reply. The exact filing dates will be specified in the notice accompanying the service list. Comments must be served upon all parties of record.

**ADDRESSES:** Send comments referring to Finance Docket No. 31922 (Sub-No. 1) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927–5660. [TDD for hearing impaired: (202) 927–5721.]

**SUPPLEMENTARY INFORMATION:** An Arbitration Board found that nothing in the express wording of, or the industry practice under, the *New York Dock* conditions[2] requires a railroad to provide affected employees their TPAs until they have been "adversely" affected as a result of the purchase transaction, and thus concluded that the railroad is not obligated to provide that information except in connection with the calculation of displacement allowances under our labor conditions.

On appeal to the Commission, BMWE argues that the information permits affected employees to determine if they have been "adversely affected," *i.e.*, placed in a worse position as a result of a transaction and thereby entitled to a displacement allowance. BMWE notes in this regard that equally important to total compensation is the amount of time the employee had to work to receive it.

Second, BMWE avers that the TPA is necessary for employees to comply with the requirement of Article I, section 5 that they exercise seniority to seek a position producing compensation equal to or exceeding the compensation received in their prior position. Without the TPA information, the union says that employees are unable to determine which positions produce equal compensation. Soo Line Railroad Company, on the other hand, argues that the information is readily available to employees, is burdensome for the railroad to provide and ought not to be required.

The Commission believes it would be helpful to have additional comment on these issues from the parties as well as the interested public.

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. 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 the conservation of energy resources.

Decided: September 9, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, Commission Simmons, and Commissioner Morgan.

**Vernon A. Williams,**

*Acting Secretary.*

[FR Doc. 94–23334 Filed 9–20–94; 8:45 am]

**BILLING CODE 7035–01–P**

[2] Those first imposed in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), as clarified in *Wilmington Term. R.R. Inc.—Pur. & Lease—CSX Transp., Inc.*, 6 I.C.C.2d 799 (1990).

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### Advisory Committee on Construction Safety and Health; Appointment of New Members

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Notice of appointment of members.

Notice is hereby given that appointments have been made to fill fifteen (15) vacancies on the Advisory Committee on Construction Safety and Health (ACCSH). The vacancies were created by the expiration of the terms of the fifteen (15) members on March 23, 1994. Pursuant to 29 CFR 1912.3(g), the terms of members are being staggered to provide for continuity in the membership of the ACCSH.

Accordingly, seven members are being appointed for one-year terms and seven members are being appointed for two-year terms. As provided by 29 CFR 1912.3(f), the member designated by the National Institute for Occupational Safety and Health (NIOSH) does not have a fixed term. The new membership of the Committee, the categories represented and the terms of appointment are as follows:

**Employee**

Mr. John B. Moran, Director, Occupational Safety & Health, Laborers' National Health and Safety Fund (reappointed for one year).

Mr. William C. Rhoten, Director of Safety and Health for United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (new appointment for one year).

Dr. Knut Ringen, Director, The Center to Protect Workers' Rights (new appointment for two years). Dr. Ringen has been appointed to Chair the Advisory Committee.

Mr. William J. Smith, Jr., Director of Safety and Health, International Union of Operating Engineers (new appointment for one year).

Ms. Lauren Sugarman, Executive Director, Chicago Women in Trades (new appointment for two years).

**Employer**

Mr. Stewart C. Burkhammer, Vice President and Manager of Safety and Health, Bechtell Construction Co. (reappointed for two years).

Mr. Stephen J. Cloutier, Corporate Safety Manager, Metric Constructors Inc. (reappointed for one year).

Ms. Bernice Jenkins, Corporate Compliance Officer, P.J. Dick Inc./ Trumbull Corporation (new appointment for two years).

Ms. Kathryn G. Thompson, Chair and Chief Executive Officer, Kathryn G. Thompson Development Company (reappointed for one year).

Mr. Theodore E. Webster, President and Chief Operating Officer, Webster Engineering Company, Inc. (new appointment for two years).

**State**

Mr. Al Meier, Commissioner of Labor, State of Iowa (reappointed for one year).

Mr. John A. Pompeii, Administrator, Oregon Occupational Safety and Health Division (new appointment for two years).

**Representatives Qualified by Knowledge and Experience**

Dr. Ana Maria Osorio, Chief, Division of Environmental and Occupational

Disease Control, California Department of Health Services (new appointment for one year).

Ms. Judy A. Paul, Registered Nurse, Private Consulting Services (new appointment for two years).

**Federal**

Ms. Diane Dunkin Porter, Assistant Director for Legislation and Policy, NIOSH (reappointment).

The terms of these members run from the date this notice was signed.

The Advisory Committee on Construction Safety and Health was established under section 107 of the Contract Work Hours and Safety Standards Act and 7(b) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor on matters pertaining to construction safety and health.

For Additional Information Contact: Tom Hall, Division of Consumer Affairs, Room N–3647, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 523–8615.

Signed at Washington, D.C., this 15th day of September, 1994.

**Joseph A. Dear,**

*Assistant Secretary of Labor.*

[FR Doc. 94–23345 Filed 9–20–94; 8:45 am]

BILLLING CODE 4510–26–M

## Iowa State Standards; Notice of Approval

### 1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667; hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR part 1902. On July 20, 1973, notice was published in the **Federal Register** (38 FR 19368) of the approval of the Iowa Plan and the adoption of Subpart J of part 1952 containing the decision. Iowa was granted final approval under Section 18(e) of the Act on July 2, 1985.

The Iowa Plan provides for the adoption of Federal standards (by reference after comments and public hearing). By a letter dated August 13, 1993, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director, and incorporated as part of the Plan, the State submitted State standards comparable to: Storage and Handling of Liquefied Petroleum Gases CFR Correction 1910.110; as published in the **Federal Register** (58 FR 15089, dated March 19, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested April 28, 1993; hearing scheduled for May 20, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on June 23, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective June 23, 1993; and notice of its adoption was published by the State on June 23, 1993.

In the August 13, 1993 letter, the State also submitted State standards comparable to: Explosives and Blasting Agents CFR Correction; as published in the **Federal Register** (58 FR 16496, dated March 29, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested April 28, 1993; hearing scheduled for May 20, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on June 23, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective June 23, 1993; and notice of its adoption was published by the State on June 23, 1993.

By letter dated September 30, 1993, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director, and incorporated as part of the Plan, the State submitted State standards comparable to: Occupational Exposure to Cadmium, Correction; Final Rule; as published in the **Federal Register** (58 FR 21778, date April 23, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested May 26, 1993; hearing scheduled for June 17, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on August 18, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective August 18, 1993; and notice of its adoption was published by the State on August 18, 1993.

In the September 30, 1993 letter, the State also submitted State standards comparable to: Lead Exposure in Construction Interim Final Rule; as published in the **Federal Register** (58 FR 22627, dated May 4, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested May 26, 1993; hearing scheduled for June 17, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on August 18, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective August 18, 1993; and notice of its adoption was published by the State on August 18, 1993.

By a letter dated January 4, 1994, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director, and incorporated as part of the Plan, the State submitted standards comparable to: Permit-Required Confined Spaces 29 CFR part 1910, Corrections to Final Rule; as published in the **Federal Register** (58 FR 34845, dated June 29, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested August 18, 1993; hearing scheduled for September 9, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on October 13, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective October 13, 1993; and notice of its adoption was published by the State on October 13, 1993.

In the January 4, 1994 letter, the State also submitted State standards comparable to: Safety Standards for General Industry and Construction; Final Rule; Technical Amendments; as published in the **Federal Register** (58 FR 35308, dated June 30, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested August 18, 1993; hearing scheduled for September 9, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on October 13, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective October 13, 1993; and notice of its adoption was published by the State on October 13, 1993.

In the January 4, 1994 letter, the State also submitted State standards comparable to: Incorporated of General Industry Safety and Health Standards Applicable to Construction Work and Technical Amendments; Final Rule; as published in the **Federal Register** (58 FR 35077, dated June 30, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested August 18, 1993; hearing scheduled for September 9, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on October 13, 1993,

pursuant to Chapter 17a, of the Iowa Code. The standard was effective October 13, 1993; and notice of its adoption was published by the State on October 13, 1993.

In the January 4, 1994 letter, the State also submitted State standards comparable to: Air Contaminants; Final Rule; as published in the **Federal Register** (58 FR 35340, dated June 30, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested August 18, 1993; hearing scheduled for September 9, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on October 13, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective October 13, 1993; and notice of its adoption was published by the State on October 13, 1993.

In the January 4, 1994 letter, the State also submitted State standards comparable to: Incorporation of General Industry Safety and Health Standards Applicable to Construction Work; 29 CFR 1926, Correction; as published in the **Federal Register** (58 FR 40468, dated July 28, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 1, 1993; hearing scheduled for September 23, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on October 27, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective October 27, 1993; and notice of its adoption was published by the State on October 27, 1993.

In the January 4, 1994 letter, the State also submitted State standards comparable to: Air Contaminants; 29 CFR 1910, Correction; as published in the **Federal Register** (58 FR 40191, dated July 27, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 1, 1993; hearing scheduled for September 23, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on October 27, 1993, pursuant to Chapter 17a, of the Iowa Code. The standard was effective October 27, 1993; and notice of its adoption was published by the State on October 27, 1993.

**2. Decision**

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the comparable Federal standards and should therefore be approved.

**3. Location of Supplement for Inspection and Copying**

A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal/State Operations, Office of State Programs, Room N3700, 200 Constitution Avenue, NW, Washington, DC 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 406 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106; and Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

**4. Public Participation**

Under 29 CFR 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Iowa State Plan as a proposed change and for making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the comparable Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation and notice would be unnecessary.

This decision is effective September 21, 1994.

(Section 18, Public Law 91–596, 84 Stat. 1608 [29 U.S.C. 667]).

Signed at Kansas City, Missouri, this 20 day of June, 1994.

**John T. Phillips,**

*Regional Administrator.*

[FR Doc. 94–23348 Filed 9–20–94; 8:45 am]

BILLING CODE 4510–26–M

## Maryland State Standards; Approval

**1. Background**

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated May 16 and July 25, 1994, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to amendments, corrections, and revisions to: (1) 29 CFR 1926.63, pertaining to the Occupational Exposure to Cadmium Standard for the Construction Industry as published in the **Federal Register** of January 3, 1994 (59 FR 1920); (2) 29 CFR 1910.1200, including Appendices A through D, pertaining to the Hazard Communication Standard as published in the **Federal Register** of February 9, 1994 (59 FR 6169); and (3) 29 CFR 1910.269, including Appendices A through E, pertaining to the Electronic Power Generation, Transmission and Distribution Standard and related changes to 29 CFR 1910.37, 1910.331, and 1910.333 as published in the **Federal Register** of January 31, 1994 (59 FR 4435). These standards are contained in COMAR 09.12.31. Maryland occupational safety and health standards were promulgated after public hearings on March 4 and June 15, 1994. The Cadmium Standard became effective on May 9, 1994, and the Hazard Communication and Electric Power Generation, Transmission and Distribution standards became effective on July 4, 1994.

**2. Decision**

Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

**3. Location of the Supplements for Inspection and Copying**

A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite

2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, U.S. Department of Labor, Room N3700, 3rd Street and Constitution Avenue, NW., Washington, DC 20210.

**4. Public Participation**

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standard is identical to the Federal standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 21, 1994.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Philadelphia, Pennsylvania, this 2nd day of August 1994.

**Linda R. Anku,**

*Regional Administrator.*

[FR Doc. 94–23346 Filed 9–20–94; 8:45 am]

BILLING CODE 4510–26–M

## Vermont State Standards; Approval

**1. Background**

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On October 16, 1973, notice was published in the **Federal Register** (38 FR 28658) of the approval of the Vermont State Plan and the adoption of Subpart U to Part 1952 containing the decision.

The Vermont State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing for two (2) successive weeks, in three (3) newspapers having general circulation in the center, northern and southern parts of the State, an intent to amend the State Plan by adopting the standard(s).

b. Review of standards by the Interagency Committee on Administrative Rules, State of Vermont.

c. Approval by the Legislative Committee on Administrative Rules, State of Vermont.

d. Filing in the Office of the Secretary of State, State of Vermont.

e. The Secretary of State publishing, not less than quarterly, a bulletin of all standard(s) adopted by the State.

The Vermont State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. By letter dated June 2, 1994, from Mary S. Hooper, Commissioner, Vermont Department of Labor and Industry, to John B. Miles, Jr., Regional Administrator; and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR Parts 1910, and 1926, and subsequent amendments thereto, as described below:

(1) Revision to 29 CFR Parts 1910, Safety and Health Standards: Welding, Cutting and Brazing; Final Rule (55 FR 13696, dated 4/11/90).

(2) Addition to 29 CFR Parts 1910 and 1926, Incorporation of General Industry Safety and Health Standards applicable to Construction Work and Technical Amendments; Final Rules (58 FR 35077, dated 6/30/93).

These standards became effective on May 12, 1994, pursuant to Section 224 of State Law.

**2. Decision**

The above State standards have been reviewed and compared with the relevant Federal standard. It has been determined that the State standard is identical to the Federal standard, and is accordingly approved.

**3. Location of Supplement for Inspection and Copying**

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts 02114; Office of the Commissioner, State of Vermont, Department of Labor and Industry, 120 State Street, Montpelier, Vermont 05602; and the Office of State Programs, 200 Constitution Avenue, NW, Room N–3700, Washington, DC 20210.

**4. Public Participation**

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Vermont State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of the State Law which included public comment, and further public participation would be repetitious.

This decision is effective September 21, 1994.

**Authority:** Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Massachusetts, this 6th day of July, 1994.

**Cindy A. Coe,**

*Acting Regional Administrator.*

[FR Doc. 94–23347 Filed 9–20–94; 8:45 am]

BILLING CODE 4510–26–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–409; License No. DPR–45]**

## Dairyland Power Cooperative; La Crosse Boiling Water Reactor (LACBWR); Confirmatory Order Modifying NRC Order Authorizing Decommissioning of Facility

**I**

The Dairyland Power Cooperative (DPC, the licensee) is the holder of Facility License No. DPR–45, originally issued by the Atomic Energy Commission, the predecessor to the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on August 28, 1973. The licensee's authority to operate DPR–45 was terminated by license Amendment No. 56, dated August 4, 1987. The licensee is authorized to possess but not to operate the La Crosse Boiling Water Reactor (LACBWR) in accordance with the conditions specified therein. The facility is located on the licensee's site located 19 miles south of La Crosse, Wisconsin.

II

In its Order (Decommissioning Order) of August 7, 1991, the NRC directed DPC to decommission the reactor facility in accordance with its Decommissioning Plan and the Commission's regulations. This action was taken in response to the licensee's application for authorization to decommission the facility, dated December 21, 1987, as revised February 22, 1988, September 9, 1988, September 30, 1988, January 26, 1989, March 28, 1989, June 6, 1989, October 3, 1989, July 25, 1990, May 10, 1991, and July 25, 1991. Neither the August 7, 1991, Decommissioning Order, which authorized the licensee to decommission the reactor facility, nor the approved Decommissioning Plan, contained an approved procedure that would allow the licensee to: (i) Make changes in the facility or procedures as described in the Decommissioning Plan; or (ii) conduct tests or experiments not described in the Decommissioning Plan, without prior NRC approval.

III

The licensee, in its letters of August 2, and August 5, 1994, requested the NRC to modify the August 7, 1991, Decommissioning Order to allow DPC to: (i) Make changes in the facility or procedures as described in the Decommissioning Plan; and (ii) conduct tests and experiments not described in the Decommissioning Plan, without prior NRC approval.

The licensee, as other licensees of both operating facilities and facilities in the process of being decommissioned, continues to discover facility improvements which, if implemented, would either reduce facility operating costs, improve facility safety margins, or are necessary for continued operation/maintenance of the facility. Further, a large number of these licensee-initiated facility improvements, if implemented, would neither increase the probability of an accident occurring, increase the consequences of an accident, reduce safety margins, or create a significant environmental impact not previously evaluated. Thus, in these circumstances, for the NRC to require a licensee to first receive NRC approval prior to the implementation of facility improvements that meets the above criteria would cause an unnecessary burden on the licensee. The NRC has included such change procedures in recently-issued plant specific decommissioning orders.

The licensee has committed, prior to making any changes to its Decommissioning Plan, to apply the safety and environmental review procedure specified below, which is similar to the safety review procedure specified in 10 CFR 50.59. This commitment is consistent with the flexibility under § 50.59 afforded to a licensee authorized to operate a facility and other Decommissioning Orders issued by the NRC.

Section 50.59(a)(1) allows a holder of a license authorizing operation of a production or a utilization facility to: (i) Make changes in the facility or procedures as described in the Safety Analysis Report; and (ii) conduct tests or experiments not described in the Safety Analysis Report, without NRC approval, provided the proposed action does not consist of a change to the facility technical specifications or an unreviewed safety question.

I find that the licensee's commitments as set forth in its letters of August 2, and supplemented by letter dated August 5, 1994, are acceptable and conclude that with these commitments the safety of the plant is reasonably assured. In view of the foregoing, I have determined that the public health, safety, and interest require that the licensee's commitments in its August 2, and August 5, 1994, letters be confirmed by this Order. The licensee has consented to the issuance of this Order. (59 FR 46996, September 13, 1994)

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, It Is Hereby Ordered That The August 7, 1991, Decommissioning Order Is Modified As Follows:

The Order of August 7, 1991, which directed the licensee to decommission the reactor facility in accordance with its Decommissioning Plan and the Commission's regulations, is modified to include the following procedure by which the licensee is allowed to: (i) Make changes in the facility or procedures as described in the Decommissioning Plan; and (ii) conduct tests or experiments not described in the Decommissioning Plan, without prior NRC approval:

(a)(1) The licensee may (i) make changes in the facility or procedures as described in the Decommissioning Plan, and (ii) conduct tests or experiments not described in the Decommissioning Plan, without prior NRC approval, unless the proposed change, test or experiment involves a change in technical specifications (TS) incorporated in the license, an unreviewed safety question, or results in a significant environmental impact not previously evaluated in the Environmental Assessment in support of the August 7, 1991, Decommissioning Order or the Final Environmental Statement (FES) related to operation of LACBWR, dated April 21, 1980 (NUREG–0191). Notwithstanding the above, a reduction in site staffing levels below the minimum number for any group or area shown on the organization chart (Fig. 6.1) in the LACBWR Decommissioning Plan, or a change in the reporting relationships for the Plant Manager must be submitted to the NRC as specified in 10 CFR 50.4, and receive NRC approval prior to implementation.

(2) A proposed change, test or experiment shall be deemed to involve an unreviewed safety question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment necessary for SAFSTOR previously evaluated in either the Final Safety Analysis Report (FSAR) or the Decommissioning Plan may be increased, or (ii) if a possibility for an accident or malfunction of a different type than evaluated previously in the FSAR or Decommissioning Plan may be created, or (iii) if the margin of safety as defined in the basis for any TS is reduced.

(b)(1) The licensee shall maintain records of changes in the facility and of changes in procedures made pursuant to this procedure, to the extent that these changes constitute changes in the facility or procedures as described in either the FSAR or the Decommissioning Plan. The licensee shall also maintain records of tests and experiments performed pursuant to paragraph (a) of this section. These records must include a written safety evaluation containing the basis for the determination that the changes, tests or experiments do not involve an unreviewed safety question, or a significant environmental impact not previously evaluated.

(2) The licensee shall annually submit, as specified in 10 CFR 50.4, a report containing a brief description of any changes, tests, and experiments, including a summary of the safety evaluation of each.

(3) The licensee shall maintain records of changes in the facility until the date of termination of the license and shall maintain the records of changes in procedures and records of tests and experiments for a period of three years.

(c) If the licensee desires (1) a change in the TS, or (2) to make a change in the facility or procedures described in the Decommissioning Plan or conduct tests or experiments not described in the Decommissioning Plan, which involve an unreviewed safety question, a change in the TS, or a significant environmental impact not previously evaluated, the licensee shall submit an application for amendment of its license pursuant to 10 CFR 50.90.

V

Any person adversely affected by this Confirmatory Order, other than the licensee, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555.

Copies of the hearing request shall also be sent to the Director, Office Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532–4351, and to the licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, the provisions specified in Section IV shall be final 20 days from the date of this Order without further proceedings.

For further details with respect to this action, see: (1) The Commission's order authorizing decommissioning of facility, dated August 7, 1991; (2) the licensee's application for authorization to decommission the facility, dated December 21, 1987, as revised February 22, 1988, September 9, 1988, September 30, 1988, January 26, 1989, March 28, 1989, June 6, 1989, October 3, 1989, July 25, 1990, May 10, 1991, and July 25, 1991; (3) Amendment No. 66 to License No. DPR–45, SAFSTOR TS; (4) the Commission's related Safety Evaluation; and (5) the Environmental Assessment and Finding of No Significant Impact. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. Copies of items (1), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Waste Management.

Dated at Rockville, Maryland, this 15th day of September 1994.

For the Nuclear Regulatory Commission.

**Malcolm R. Knapp,**

*Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 94–23331 Filed 9–20–94; 8:45 am]

BILLING CODE 7590–01–M

**[Docket No. 50–458]**

## River Bend Station; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47 issued to Entergy Operations, Inc. (the licensee), for operation of the River Bend Station, located in West Feliciana Parish.

The proposed amendment would revise the formula for calculating the average power range monitor (APRM) flow biased simulated thermal power-high reactor trip and flow biased neutron flux-upscale control rod block trip setpoints T-factor specified in Technical Specification (TS) 3/4.2.2. The proposed changes are necessary to support implementation of recommendations contained in NRC Generic Letter 94–02, "Long-Term Solutions and Upgrade of Interim Operating Recommendations for Thermal-Hydraulic Instabilities in Boiling Water Reactors."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), a licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change only redefines the APRM setpoints T-factor. The modified APRM setpoints T-factor does not change or affect operator required actions in relation to the APRM setpoints T-factor and is only applied at different power peaking for given reactor power. Therefore, this change only affects the precursors to events that can be initiated as a result of different power peaking. The only event affected is the formation of coupled thermal-hydraulic and neutronic oscillations (reactor stability). Since the modified APRM setpoints T-factor allows power distributions which permits the application of stability controls to increase stability margin, the probability for initiation of reactor instability is significantly reduced. Therefore, this change does not involve a significant increase in the probability of any event previously evaluated.

The consequence of a reactor instability event is minimized since the initial reactor conditions are associated with very stable power distributions. These stable conditions are established using stability controls which are permitted with the modified APRM setpoints T-factor. Since the initial reactor conditions are very stable, the severity of a postulated reactor instability event is significantly diminished. In addition, the modified APRM setpoints T-factor is confirmed to provide adequate LHGR [linear heat generation rate] protection at off-rated conditions for other anticipated events. Protection of other thermal limits for all previously analyzed events is accomplished by specific limits that are independent of the APRM setpoints T-factor. These are the power and flow dependent MCPR [minimum critical power ratio] Operating Limits which provide protection from fuel dryout and the rated MAPLHGR [maximum average planar linear heat-generation rate] limit which provides protection of the peak clad temperature for the DBA [design-basis accident] LOCA [loss-of-coolant accident]. Therefore, the proposed changes does not involve a significant increase in the consequences of any event previously evaluated.

The proposed change in APRM setpoints T-factor permits implementation of appropriate reactor stability controls and maintains adequate off-rated LHGR margin for all operating conditions. This change, therefore, does not involve a significant increase in the probability and consequences of any event previously evaluated.

2. The request does not create the possibility of occurrence of a new or different kind of accident from any accident previously evaluated.

This change only redefines the APRM setpoints T-factor. The proposed changes do not involve any new modes of operation or any plant modifications. The ability to implement reactor stability controls do not result in any new precursors to an accident. Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously analyzed.

3. The request does not involve a significant reduction in a margin of safety.

The change in the APRM setpoints T-factor definition allows the implementation of reactor stability controls during reactor operation at off-rated conditions which significantly improve the reactor stability performance. This is accomplished by achieving very stable power distributions outside the stability excluded region. Since the initial reactor conditions are very stable, the severity of a postulated reactor instability event is significantly diminished.

The modified APRM setpoints T-factor accommodates higher power peaking to support the required stability controls. The modified APRM setpoints T-factor has been confirmed to provide adequate LHGR protection. Operation with higher peaking without APRM gains or flow bias trip setpoints adjustment does not involve a reduction in a margin of safety because the higher power peaking resulting from the APRM setpoints T-factor modification are below applicable LHGR limits. For power peaking conditions that result in APRM setpoints T-factor less than one, an adjustment to the APRM gains or trip setpoints is made to provide additional LHGR protection. Additionally, an upper bound is placed on power peaking by the modified APRM setpoints T-factor definition. Therefore, the modified APRM setpoint T-factor does not involve a reduction in a margin of safety because the higher power peaking resulting from the APRM setpoints T-factor modification is below applicable LHGR limits.

Protection of other thermal limits for all previously analyzed events is accomplished by specific limits that are independent of the T-factor. These are the power and flow dependent MCPR Operating Limits which provide protection from fuel dryout and the rated MAPLHGR limit which provides protection of the peak clad temperature for the DBA LOCA. The proposed change does not result in an increase in core damage frequency. Therefore, the proposed change does not involve a significant reduction in the margin of safety evaluated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes the determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 21, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The

final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 12, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 15th day of September 1994.

For the Nuclear Regulatory Commission.

**Ramon V. Azua,**

*Acting Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 94–23332 Filed 9–20–94; 8:45 am]

BILLING CODE 7590–01–M

## Appointments to Recertification Performance Review Boards for the Senior Executive Service

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Appointment to Recertification Performance Review Boards for the Senior Executive Service.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to NRC Recertification Performance Review Boards.

The following individuals are appointed as members of the NRC Recertification Performance Review Board responsible for making recommendations to the appointing and awarding authorities on recertification for Senior Executives:

**New Appointees**

Edward L. Jordan, Office for Analysis and Evaluation of Operational Data
Robert M. Bernero, Office of Nuclear Materials Safety and Safeguards
Karen D. Cyr, General Counsel, Office of the General Counsel

The following individuals are appointed as members of the NRC Recertification PRB Panel responsible for making recommendations to the appointing and awarding authorities on recertification of Recertification PRB members:

**New Appointees**

James L. Milhoan, Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations & Research, Office of the Executive Director for Operations
Patricia G. Norry, Director, Office of Administration
Hugh L. Thompson, Jr., Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, Office of the Executive Director for Operations

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

**EFFECTIVE DATE:** September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** James F. McDermott, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301) 415–7516.

Dated at Rockville, Maryland, this 15th day of September, 1994.

For the U.S. Nuclear Regulatory Commission.

**James F. McDermott,**

*Secretary, Executive Resources Board.*

[FR Doc. 94–23330 Filed 9–20–94; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–34673; File No. SR–NASD–94–46]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Pricing of Open Orders

September 15, 1994.

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 August 16, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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 NASD is proposing to amend Article III, Section 46 of the Rules of Fair Practice [1] to clarify that its provisions will not apply if an issuer does not notify the NASD of the declaration of a dividend or distributions. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

*Adjustment of Open Orders*

*Sec. 46.*

* * * * *

(e) The provisions of this rule shall not apply to [orders]: (1) *orders* governed by the rules of a registered national securities exchange; (2) *orders* marked "do not reduce"; (3) *orders* marked "do not increase;" (4) open stop orders to buy; [or] (5) open sell orders[.1]; *or (6) orders for the purchase*

[1] *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 46 (CCH) ¶ 2200F.

*or sale of securities where the issuer of the securities has not reported a dividend, payment or distribution pursuant to Rule 10b–17 under the Securities Exchange Act of 1934 (17 CFR § 240.10b–17).*

**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 NASD 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 V below. The NASD 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*

Article III, Section 46 of the NASD Rules of Fair Practice, which is scheduled to go into effect on September 15, 1994, requires members to adjust open orders for securities when they are quoted ex-dividend, ex-rights, ex-distribution or ex-interest.[2] Most members are on notice that a particular security has gone ex-dividend, ex-rights, ex-distribution or ex-interest because Rule 10b–17 under the Act[3] generally requires an issuer to give notice to the Association[4] no later than ten days prior to the record date involved[5] of a dividend or other distribution in cash or in kind, a stock split or reverse split, or a rights or other subscription offering. However, if an issuer does not comply with Rule 10b–17, the member holding an open order may not have notice of the record date and permit the order to be executed when the security is quoted ex-dividend. Accordingly, the NASD is proposing an amendment to Article III, Section 46 to provide that it will not apply where the issuer has not provided the notice required by Rule 10b–17.

The NASD has not noted a widespread Rule 10b–17 compliance problem among domestic issuers. However, NASD member firms that do a business in foreign securities are required by Article III, Section 46 to adjust the price of an open order for a foreign security traded on a foreign exchange. In some cases, issuers of such securities are not required by the laws of the issuers' country of domicile to announce a dividend, and often such issuers do not declare dividends in advance. In some cases, the markets find out about dividends when there is a significant, unexplained price change in the security and the issuer or exchange confirms, in response to inquiries, that a dividend has been declared. In such a situation the firm may find itself in violation of Article III, Section 46 by permitting an open order to be executed for such a security after the dividend has been declared.

In order to resolve the problem faced by member firms dealing in foreign securities or in securities of domestic issuers who have not complied with Rule 10b–17, the NASD has determined that an exemption for open orders for such securities from the coverage of the new section is necessary. Accordingly, the NASD is amending subsection (e) to Section 46 of the NASD Rules of Fair Practice to state that the obligation to reprice open orders does not apply with respect to securities where the issuer has not provided the required Rule 10b–17 notice. Because Rule 10b–17 requires issuers to notify the NASD or national securities exchanges upon the declaration of a dividend or other distribution, using Rule 10b–17 as the basis for the exemption means that the obligations of Article III, Section 46 of the Rules of Fair Practice would attach only if an issuer has complied with Rule 10b–17.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which require that the rules of the association be designed to prevent fraudulent and manipulative acts, promote just and equitable principles of trade, and protect investors and the public interest, in that the proposed rule preserves the current obligation to adjust open orders after the ex-date without imposing an obligation on members that would be difficult or impossible to meet if issuers did not announce dividends or distributions in advance of the ex-date.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended

*(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**

The NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The NASD notes that Section 46 is scheduled to go into effect on September 15, 1994; the Section requires members to adjust open orders for securities when they are quoted ex-dividend, ex-rights, ex-distribution or ex-interest; and that it is impracticable for members to fulfill the obligations imposed by the Section if an issuer has not complied with the requirements of Rule 10b–17.

Based on the NASD's representations that: (1) the laws of the home jurisdiction(s) of many foreign issuers do not require such issuers to announce the declaration of a dividend or distribution; (2) often such issuers do not declare dividends in advance; (3) markets often find out about dividends only after there has been a significant, unexplained price change in the security and the issuer or exchange confirms, in response to inquiries, that a dividend has been declared; and (4) it is impracticable for members to fulfill the obligations imposed by the Section if an issuer, whether foreign or domestic, has not complied with the requirements of Rule 10b–17, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A(b)(6). Section 15A(b)(6) requires, in part, that the rules of the NASD be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

The Commission finds good cause for approving the proposal on an accelerated basis to prevent NASD members from violating the provisions of Section 46 in circumstances in which

[2] *See* NASD Notice to Members 94–9 (February 1994) and NASD Notice to Members 94–28 (April 1994).

[3] 17 CFR 240.10b–17 (1993).

[4] If a security is listed on a national securities exchange or exchanges, the issuer of that security may give notice in accordance with the procedures of that exchange or exchanges in lieu of giving notice to the NASD.

[5] An issuer may give notice on or before the record date in the event of a rights subscription or other offering if 10 days advance notice is not practical.

[6] 15 U.S.C. § 78*o*–3.

such members cannot be expected to be able to comply with that Section. The Commission believes that the proposed rule change promotes the public interest by preserving a member's obligation to adjust open orders after the ex-date without imposing an obligation that would be difficult or impossible for that member to meet if an issuer does not announce dividends or distributions in advance of the ex-date. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

**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, N.W., Washington, D.C. 20459. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to SR–NASD–94–46 and should be submitted by October 12, 1994.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASD–94–46), be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–23344 Filed 9–20–94; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

### Pilot Export Working Capital Program

**AGENCY:** Small Business Administration.

**ACTION:** Notice of Pilot Program.

**SUMMARY:** The Small Business Administration (SBA) is issuing a notice to advise the public that it is beginning the Export Working Capital Program (EWCP) on a pilot basis nationwide. The pilot program is scheduled to end September 30, 1995, at which time it will be evaluated to determine what, if any, aspects of the pilot should be made permanent. This notice is issued pursuant to § 120.1–2 of SBA's regulations (13 CFR 120.1–2).

Under EWCP, SBA guarantees short-term working capital loans made by participating lenders to exporters for the purpose of financing export transactions. EWCP is intended to replace SBA's Export Revolving Line of Credit (ERLC) Program. Accordingly, the regulations for the ERLC Program (13 CFR 122.54) will not apply to EWCP loans.

The SBA and the Export Import Bank of the United States (ExIm Bank) are working to harmonize their export financing programs. Accordingly, many features of SBA's EWCP and ExIm Bank's Export Working Capital Program are similar. By design, SBA's Program will assist smaller businesses that need a guarantee of $750,000 or less and ExIm Bank's Program will serve the larger businesses and small businesses that have larger credit needs.

**EFFECTIVE DATE:** October 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Wayne Foren, Office of Financial Assistance, (202) 205–7502.

**SUPPLEMENTAL INFORMATION:** EWCP loans are made under the authority of SBA's regular business loan program known as the 7(a) Program. The policies and procedures governing the EWCP pilot are contained in operating guidelines developed for the Program. These guidelines describe the eligibility, credit and processing considerations for the Program.

**Eligibility Considerations**

Under EWCP, SBA guarantees short-term working capital loans made by participating lenders to exporters. Loan proceeds may only be used to finance the acquisition or production of goods and services being exported and accounts receivable of such export sales under EWCP.

- A Pre-shipment Guarantee is used to finance the acquisition or production cost of export goods and services. The term of these loans is usually no more than 12 months. Payment is secured by letter of credit, valid purchase orders or contracts, or other such arrangement.
- A Post-shipment Guarantee is used to finance receivables resulting from export sales. The maximum term of these loans should not exceed 6 months.
- A Combined Guarantee is used to finance both the acquisition or production of export goods and services and the account receivables resulting from such export sales. The maximum term of a Combined Guarantee is 18 months.

Although payment may be made through one of several arrangements, usually ExIm bank insurance (or other comparable insurance) will be required in conjunction with an EWCP Guarantee where Post-shipment or Combined guarantees are being extended unless payment is being made by a confirmed, irrevocable letter of credit.

A loan Guarantee may be for a single transaction or for a Revolving Line of Credit which is used to finance "bundles" of individual transactions. Credit lines may be for as long as three years subject to annual renewals. Such renewals will be granted unless an adverse change has occurred in the exporter's financial condition or operations sufficient to jeopardize its ability to perform on export transactions. If a Line of Credit is terminated, no additional bundles will be financed and a reasonable period will be provided to liquidate the outstanding balance on the Line of Credit.

Standby letters of Credit are issued by a bank to cover a particular contingency. Frequently, they are used in place of a bid, performance or financial bonds. EWCP loans can be used to facilitate a Standby Letter of Credit.

Most products are eligible for EWCP financing. In some cases, however, Federal restrictions cause the product to be ineligible. For example, if ExIm Bank export credit insurance is required, the product must contain at least 51% U.S. content. Also, certain defense products are not eligible for ExIm Bank insurance. Where the product is customized or designed for special use, care must be taken to assure that the exporter has sufficient capability of payment should the transaction not be consummated.

Although service exports are eligible for EWCP financing, they entail greater risk than product exports, especially those that are independent of product sales. EWCP financing of service exports usually will require progress payments and possible additional collateral.

Applicants who produce, manufacture or sell products or provide services that enter into the export channel but do not directly export their products or services, including suppliers to other domestic manufacturers, are eligible for EWCP financing. In such cases, the applicant shall provide evidence to SBA that the goods or services are in fact being exported.

The dollar amount of the SBA Guarantee is of an EWCP loan limited to the lesser of two factors. First, EWCP loans are limited to the exporter's cost, if they are for Pre-shipment financing, or the receivable associated with the product being exported, if they are for Post-shipment or Combined financing. Second, with few exceptions, the maximum guarantee amount that may be outstanding or committed to any small business concern under the 7(a) and the 504 Programs in the aggregate is $750,000. EWCP loans are considered 7(a) loans for this calculation.

As is the case for Regular 7(a) loans, EWCP loans of $155,000 or less will be eligible for an SBA Guarantee of 90 percent of the principal amount of the loan. For loans over $155,000, the SBA Guarantee may not exceed 85 percent; however, loans made under the SBA's Preferred Lender authority may not exceed 70%. It is noted that legislation is pending before the Congress that would increase the maximum guarantee coverage for all EWCP loans to 90 percent. This legislative change will cause the guarantee percentage to be the same as ExIm Bank's guarantee percentage.

SBA will monitor, but not regulate, the interest charges and fees imposed by lenders for EWCP loans. This approach is consistent with the policies of ExIm Bank and most state export finance programs.

A $100 application fee will be assessed each applicant for an EWCP loan application or a Preliminary Commitment (PC) application. However, an application fee will not be assessed to the lender on a loan application for an exporter who had previously received a Preliminary Commitment and paid a fee. The normal guarantee fee for 7(a) loans will be assessed: One quarter of one percent (.25%) for a loan under one year and two percent (2%) for loans over one year.

As previously stated, an SBA guaranteed EWCP loan is obtained by an exporter from a lender participating in SBA's EWCP loan program. The exporter and the lender prepare the loan application which the lender submits to SBA for a loan guarantee.

In cases where an exporter is unable to find a lender willing to make the loan, the exporter can submit an application to SBA for a Preliminary Commitment. A PC is a 60 day conditional commitment issued by SBA to an exporter specifying that SBA will guaranty a loan to the exporter in accordance with the terms and conditions specified in the PC. It should be noted that PCs are not required as an interim step to obtaining an EWCP loan; rather, they help an exporter find a lender who will make the loan. Another benefit of PCs is that they allow an exporter to take advantage of SBA financial counseling and technical assistance without first having a participating lender.

In some areas, SBA approved Intermediaries will be available to assist exporters in loan packaging, deal structuring and credit analysis. Pursuant to an agreement with the exporter, these intermediaries may charge an amount not to exceed 1% of the loan amount. SBA approved resource partners will be available to assist exporters with management and technical assistance.

Applicants must be identifiable small businesses organized in the United States as for profit entities with operations in the United States. The size standards applicable to regular business loans under the 7(a) program also apply to EWCP loans. While a business organized and/or located outside the United States is ineligible for EWCP financing, a U.S. subsidiary of a foreign corporation may be eligible. Finally, Export Trading Companies and Export Management Companies are eligible for EWCP financing if they take title to the goods being exported.

Applicants must have sufficient experience and capability to complete the export transaction. Generally, exporters should have been in operations, though not necessarily in exporting, for at least 12 continuous months prior to filing an application. Exceptions will be considered where the applicant is a new business but the principals have proven expertise in the exporter's line of business.

The exporter's ability to perform is one of the most important considerations in the EWCP loan making process. This includes the exporter's ability to acquire or produce the export product or service, complete the export transaction, and present the proper documents for payment. Therefore, loan applications shall be approved only where such performance capability is determined to exist.

**Credit Considerations**

All SBA guaranteed loans, including EWCP loans, are statutorily required to demonstrate reasonable assurance of repayment. Usually, regular 7(a) loans are term loans and collateral is not linked to loan repayment. Assessment of the applicant's ability to repay the loan from operations over an extended period is a primary concern and collateral is important as a secondary source of repayment. Strength of the balance sheet including net worth and liquidity are essential as well as the reasonableness of projections.

*Conversely,* EWCP loans are short-term and transaction-based. The primary repayment source is the collateral associated with the transaction in which the lender has taken an assignment. The primary concern is the borrower's ability to perform on the contract and the ability to realize on the collateral. The horizon is short on these transactions. Balance Sheet strength, reasonableness of projections, etc. are important only as they relate to the primary concern.

SBA does not assess foreign commercial or political risk. Therefore, exporters are required to have an acceptable letter of credit, valid purchase orders and contracts, acceptable export receivables and/or ExIm Bank export credit insurance or private insurance that is acceptable. Transactions financed by EWCP loans must be payable in U.S. dollars unless SBA permits otherwise on an exceptions basis. This policy addresses both the foreign currency and foreign exchange risks.

It is essential that EWCP loans be secured with a first lien on all collateral associated with the transactions financed by the loan. Also, an assignment of proceeds from the borrower to the lender shall be required as a condition to SBA's guarantee. SBA has modified its policy on personal guarantees due to the short-term nature of these loans and their structure.

Subject to appropriate approvals, SBA and ExIm Bank plan to utilize, under the pilot, a joint loan application form. This will enable potential borrowers to better understand the program functions and uses. Also, it will facilitate the referral of applications to the appropriate Agency. Other SBA forms required by law or policy will be used by SBA during the pilot.

**Processing Considerations**

EWCP loan applications are processed on a three track system. Track one is regular processing and all participating lenders in EWCP have the authority to submit EWCP loan applications on this track. Track two is the Certified Lenders Program (CLP) where greater reliance is placed on the lender's analysis and three day turnaround is the standard. Track three is the Preferred Lenders Program (PLP) where lenders are given delegated authority to make loans.

In addition to regular processing, EWCP participating lenders that meet the eligibility criteria for CLP and/or PLP will have the authority to submit loans for processing on track two and/or three as the case may be. It should be

noted that all EWCP participating lenders must have successful experience in providing trade finance to exporters and an acceptable collateral management system. Also, it is noted that all applications for Preliminary Commitments will be processed on track one, regular processing.

SBA District Offices that have affiliated U.S. Export Assistance Centers will be processing centers for EWCP loan and Preliminary Commitment applications. Other District Offices may be designated as EWCP processing centers based on activity and capability. District Offices that are not so designated will forward loan applications for processing to the designated EWCP processing center. All SBA district offices, whether or not designated as processing centers, will promote the pilot program and will continue to offer business development assistance to exporters. During the term of the pilot, the SBA Office of International Trade will work closely with the SBA processing offices to provide technical support on loan structuring and foreign risk assessment.

Because EWCP loans are short-term and often require swift action by staff familiar with the loan, the SBA recommending loan officer will retain the responsibility for loan servicing. If the lender does not handle the loan liquidation, the SBA district office which approved the loan will liquidate it.

During the pilot, EWCP loans will not be eligible for sale in the secondary market that exists for 7(a) loans.

In summary, SBA's Export Working Capital Program is a loan guarantee program for exporters to provide transaction financing. There are three important considerations in this program: (1) The existence of a transaction(s), (2) the capability of the exporter to perform and satisfy the requirements of the transaction(s), and (3) loan repayment (adequacy of documents, security interest in the collateral and assignment of proceeds).

Dated: September 15, 1994.

**Erskine B. Bowles,**

*Administrator.*

[FR Doc. 94–23339 Filed 9–20–94; 8:45 am]

BILLING CODE 8025–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. 27905]**

### Recurrent and Transition Training

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

**ACTION:** Request for comments.

**SUMMARY:** This notice requests public comment to identify acceptable industry standards for transition and recurrent flight training for civil aviation pilots other than those engaged in commercial air transportation. This notice asks each commenter to provide subjects and standards for transition and recurrent flight training that may be incorporated into one or more new or revised Advisory Circulars (AC). This information will help the FAA develop effective advisory material in partnership with the aviation community.

**DATES:** Comments should be submitted on or before January 19, 1995.

**ADDRESSES:** Comments should be in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 27905, 800 Independence Ave., SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27905. Comments may be examined in the Rules Docket, room 915–G, weekdays between 8:30 a.m. and 5 p.m., except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Thomas Glista, AFS–850, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8150.

**SUPPLEMENTARY INFORMATION:** With this notice the FAA is announcing an evaluation of transition and recurrent flight training for civil aviation pilots other than those engaged in commercial air transportation. One of the goals of the 1994 General Aviation Action Plan (GAAP) calls for increasing the effectiveness of the pilot and aircraft maintenance technician training infrastructure (flight instructors, schools, practical test standards, knowledge testing publications), and transition training and recurrent training programs. Additionally, the GAAP states that FAA efforts will include programs to solicit customer (the aviation community) feedback and other input on our services. Consequently, the FAA is requesting information on industry standards for transition and recurrent flight training.

Currently, there are several ACs that address various transition and recurrent flight training subject areas. Some of these are: AC 61–9B, *Pilot Transition Courses for Complex Single Engine and Light Twin-Engine Airplanes;* AC 61–10A, *Private and Commercial Pilot Refresher Courses;* AC 61–66 *Annual Pilot in Command Proficiency Checks;* AC 61–89A, *Pilot Certificates: Aircraft Type Ratings;* AC 61–98A, *Currency and Additional Qualification Requirements for Certificated Pilots;* AC 61–103, *Announcement of Availability: Industry-Developed Transition Training Guidelines for High Performance Aircraft; and* AC 61–107, *Operations of Aircraft at Altitudes Above 25,000 Feet MSL and/or MACH numbers (Mmo) Greater Than .75.* The FAA is considering combining these ACs into one or two ACs.

Often a pilot will transition from basic training aircraft to faster and more complicated aircraft. The FAA is seeking information on whether a pilot should receive transition training with some or all of these changes of aircraft and, if so, what training. Especially with the development and certification of pressurized single engine and light twin engine aircraft with complex systems not requiring a type rating, transition training has become more critical. The FAA believes that it should publish information on the recommended training to transition from aircraft to aircraft.

The FAA recognizes that many civil aviation pilots desire, and may obtain, an airline transport pilot (ATP) certificate, although that certificate is not required for civil aviation operations which are not air carrier operations. The FAA believes that many corporate flight departments, for their own reasons, require their pilots to hold an ATP certificate. Insurance company requirements may influence pilots to gain an ATP certificate even though it is not required for the operations performed by those pilots. Commenters should feel free to address transition and recurrent flight training subjects that they believe to be applicable to the ATP certificate as well as the recreational, private, and commercial certificates.

Additionally, the FAA believes that appropriate recurrent training can be very effective in reducing accidents and incidents. Regression analysis of the general aviation fatal accident rate data indicates that following the implementation of the biennial flight review requirement (November 1, 1974) there was a one-time 10 percent decrease in fatal accident rates beyond the existing long-term declining trend in

accident rates. The FAA also believes that the more appropriate the recurrent flight training, the greater the reduction in accidents. Consequently, the FAA is requesting that the public identify subjects and standards for transition and recurrent flight training, if the current ACs should be modified and if so, how they should be modified, and the content of the ACs.

The FAA is especially seeking comments from flight instructors, manufacturers, industry groups, aircraft specific type clubs and societies, and insurance underwriters.

Issued in Washington, DC on September 14, 1994.

**Louis C. Cusimano,**

*Acting Manager, General Aviation and Commercial Division.*

[FR Doc. 94–23260 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–M

## Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

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

**ACTION:** Notice of meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues.

**DATES:** The meeting will be held on October 13, 1994, at 9:00 a.m. Arrange for oral presentations by October 6, 1994.

**ADDRESSES:** The meeting will be held at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW, Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathy Ball, Aircraft Certification Service (AIR–1), 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–8235.

**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 Rulemaking advisory committee to be held on July 21, 1994, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW, Washington, DC 20005. The agenda for the meeting will include:

- Opening Remarks.
- Discussion of ARAC 21 assigned tasks/expansion of tasks.
- Recommendation of the International Certification Procedures Working Group (ICPTF) of a Notice of Proposed Rulemaking (NPRM) and an Advisory Circular (AC).
- Working Group Status Reports ELT, Delegation System, Parts, Production Certification.
- Old Business.
- New Business.

ARAC will be voting on whether to accept the recommendation of the ICPTF Working Group, and in turn, make a formal recommendation to the FAA. Interested members of the public may obtain a copy of the NPRM and the AC by contacting Jeanne Trapani Office of Rulemaking, on (202) 267–7624.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by October 6, 1994, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Aircraft Certification Procedures or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, of requested 10 calendar days before the meeting.

Issued in Washington, DC, on September 15, 1994.

**Daniel Salvano,**

*Assistant Executive Director for Aircraft Certification Procedures, Aviation Rulemaking Advisory Committee.*

[FR Doc. 94–23336 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–M

## Recordation: Treatment of Instruments With Proprietary Information Intentionally Omitted; Legal Opinion

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

**ACTION:** Notice of legal opinion.

**SUMMARY:** This notice of legal opinion is issued by the FAA Chief Counsel to advise interested parties of the treatment of instruments, including leases, with certain proprietary information intentionally omitted, when they are submitted to the Civil Aviation Registry for recordation as conveyances.

**ADDRESSES:** Information concerning this opinion may be requested from the Assistant Chief Counsel for the Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125–4904.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Standell, Assistant Chief Counsel for the Aeronautical Center, address above, or by calling (405) 954–3296.

**SUPPLEMENTARY INFORMATION:** Section 503(a)(1) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1403(a)(1)) requires the Secretary of Transportation to establish and maintain a system for the recording of conveyances which affect title to, or any interest in, civil aircraft of the United States.

Under section 101(20) of the Federal Aviation Act (49 App. U.S.C. 1301(20)), a "conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property. Consistent with that definition, aircraft leases are treated as conveyances.

Leases and other conveyances are frequently submitted for recordation to the Civil Aviation Registry (the Registry). Prior to submitting documents to the Registry, law firms will often request the opinion of the FAA Assistant Chief Counsel for the Aeronautical Center with respect to questions concerning registration or recordation. In the last several years, when submitting such documents, law firms have typically asked the Assistant Chief Counsel a question similar to this:

> We hereby request your opinion that the Lease Amendment, with (i) Exhibit B (Table of Stipulated Loss Values), (ii) Exhibit C (Table of Basic Rents) and (iii) Exhibit D (End of Term Buyout Percentage) intentionally omitted from the FAA filing counterpart thereof as containing confidential information, is eligible for recordation under section 503(a) of the Act.

The Assistant Chief Counsel typically responds by permitting recordation with such omissions. Airlines and other parties that record conveyances involving large aircraft strongly favor continuation of such permission.

Now, the editor of the "Commercial Aviation Report" and persons who appraise the market value of large aircraft oppose continuation of such recordations and request that the Registry record only complete documents. Their position is set out in the Locke Parnell Rain Harrell (hereinafter, Locke Parnell) law firm's letter of September 1, 1993.

Following receipt of the Locke Parnell letter, the views of interested persons were solicited. This option addresses the concerns of all interested parties and states the agency position with respect to the recordability of conveyances with redactions and omissions.

Accordingly, consistent with 5 U.S.C. 552(a)(1)(D), the FAA publishes its response to Locke Parnell in the Appendix to this document.

Issued in Washington, D.C., September 16, 1994.

**John H. Cassady,**

*Deputy Chief Counsel.*

**Appendix—Text of Locke Parnell Letter**

Bruce K. Packard, Esquire, Locke Parnell Rain Harrell, 2200 Ross Avenue, #2200, Dallas, TX 75201–6776.

Treatment of Instruments With Proprietary Information Intentionally Omitted

Dear Mr. Packard: Thank you for your letter of September 1, 1993, in which, on behalf of your client, "Commercial Aviation Report," you object to the Federal Aviation Administration (FAA) permitting air carriers and lessors to submit purchase, sale, and lease documents to FAA for recordation with certain financial information deleted.

You say that the omitted information includes lease rates, maintenance reserves, amortization schedules and debt loans. You argue that FAA's permitting the nondisclosure of such information is contrary to the public interest because the deleted information is essential in making fair and accurate assessments of a carrier's financial status, its safety and maintenance reserves and meaningful debt analysis.

You request FAA to immediately stop its policy of permitting recordation of incomplete document, or, in the alternative, to initiate formal rulemaking procedures allowing for public comment.

As your know, your letter was distributed as an attachment to FAA's letter of September 27, 1993, which requested advice from interested persons concerning the legal and policy issues. We received responses from 17 concerned parties including attorneys, airlines, appraisers, the Air Transport Association, and the editor of "Commercial Aviation Report." Twelve responses favored continuation of the FAA policy of permitting omissions. Five responses opposed it. Their positions will be discussed herein.

Based on review of the comments and our reconsideration of the issues, we have decided to continue permitting the recordation of documents with limited omissions or redactions.

As set out in your letter of September 1, 1993, and letters from Rocklin D. Lyons and Associates; Jack B. Feir and Associates; Aircraft Information Services, Inc.; Avitas Aviation; and "Commercial Aviation Report," principal arguments in support of FAA acceptance of only complete instruments are the following:

It is urged that obtaining capital to finance transactions involving transport aircraft is highly competitive. In making decisions, lenders rely heavily on information concerning financial health of an airline, as well as the real market value of aircraft. The market value is frequently determined by appraisals which are based on recent comparable transactions. A principal source of information about comparables is found in the Registry's aircraft records. If financial and other information considered proprietary is permitted to be deleted, market value appraisals become more speculative. As a result, conservative investors are less likely to back transactions where the real value of the collateral is not reliable. It is urged that will hurt the aviation industry.,

Additionally, it is urged that the overall financial situation of an airline is often discernible from a review of recorded transactions. As an example, one commenter pointed out that although a particular airline, as a public company, had filed all documents required by the Security and Exchange Commission (SEC) and Department of Transportation (DOT), it was only through a thorough review of the Registry's aircraft record that the "true extent of its financial woes" became known. The resulting publication of the "carrier's precarious condition" allegedly resulted in financial institutions withdrawing from transactions with the airline.

The same commenter pointed out that SEC and DOT do not provide current information and retain such information only for a limited time.

With respect to legality, an attorney suggests that a document with schedules deleted is not a "conveyance" because in defining a contract, Black's Law Dictionary says: the writing * * * contains the agreement of the parties with the terms and conditions* * *.

He argues that:

A written instrument that contains less than the total of the terms cannot, by definition, be "the" conveyance.

He further points out that the filing system under the Uniform Commercial Code as adopted in the various states, is totally dissimilar from the filing system under section 503 of the Federal Aviation Act.

He also says that the leading court cases which discuss the purposes of the Federal aircraft recording system do not factually involve the issue of whether proprietary information may be omitted.

The case for permitting documents to be recorded with deletions is set out in letters from Pegasus Capital Corporation; Crowe and Dunlevy; American Airlines; USAir; AINA Holdings, Inc.; British Aerospace, Inc.; Milbank, Tweed, Hadley and McCloy; United Airlines; Paul, Hastings, Janofsky, and Walker; Federal Express; Air Transport Association; and McAfee and Taft.

In regard to policy issues, practically all persons supporting FAA's recording documents with omissions or redactions have mentioned the significant harm which would befall airlines if confidential financial information were required to be released. They assert that the harm comes not only as a result of the advantage to other airlines in knowing proprietary information about the competition, but also in the weakened negotiating position of airlines if lenders are aware of financial concessions in previous agreements. Moreover, it is urged that foreign airlines and nonaviation businesses would have a distinct advantage in competing for capital.

Several airlines point out that there is a significant amount of information concerning airline fitness already available to the public. In any event, they say that the Registry was never intended as a database for financial information which even airlines' stockholders can't obtain.

Several commenters suggest that full disclosure does not benefit the public at large but only parochial interests.

With respect to legal issues, practically all pro-omission commenters point out that there is no statutory or regulatory basis to require disclosure of confidential financial information. By reference to legislative history, case law, and "plain meaning" of section 503 of the Federal Aviation Act, they point out that the Registry was established as a clearing house solely to allow interested persons to check on interests in aircraft.

An attorney in Oklahoma City argues that FAA's position with respect to permitting omissions has not really changed since 1938. He alleges that neither FAA nor its predecessor, Civil Aeronautics Authority, ever required a promissory note with underlying financial information be filed with a chattel mortgage. He also alleges that the Registry has historically accepted security agreements which contain blanks representing financial terms.

Several commenters analogize the FAA recording system to that established in each of the states based on the Uniform Commercial Code's model. One airline suggests that the FAA recording system would pass legal muster even if it were only a "notice system." A law firm says a "bare-bones conveyance" is recordable with "superfluous information in an unrecorded document."

Four commenters have pointed out that since 5 U.S.C. 552(b)(4) exempts release of commercial or financial information under the Freedom of Information Act, the Registry should not disclose such information. An airline says that under section 1104 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1505), disclosure of information obtained by FAA is not permitted if such disclosure would "adversely affect the competitive position of any carrier in foreign air transportation."

Two law firms say that FAA should not be in the business of determining the validity of instruments since that is reserved to the states under section 506 of the Act.

An Oklahoma City attorney says that Congress' intent in creating the FAA recording system can be gleaned from section 503(g) of the Act (49 App. U.S.C. 1503(g)) which authorizes FAA to issue regulations providing for endorsements upon certificates of registrations "as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft * * *."

The same attorney suggests that a recordable "conveyance" is simply whatever the Registry will accept under § 49.33(a) of the Federal Aviation Regulations (14 CFR 49.33(a)).

In answer to Locke Parnell's assertion that permitting documents to be recorded with omissions requires rulemaking action by FAA, a commenter says that the "policy" or "rule" which permits omissions is exempted from rulemaking by the Administrative Procedure Act, 5 U.S.C. 553(b)(A) because it is an interpretative rule.

All comments have been reviewed. We now begin discussion by considering the statutory language.

In pertinent part, section 503(a)(1) of the Act (49 App. U.S.C. 2403(a)(1)) provides:

The Secretary of Transportation shall establish and maintain a system for the recording of * * * any conveyance which affects the title to, or any interest in, any civil aircraft of the United States.

Under section 101(20) of the Act (49 App. U.S.C. 1301(20)), a "conveyance" means:

A bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(The Registry has historically treated aircraft leases as instruments affecting an interest in property.)

There is nothing in the language of section 503 of the Act, or by way of legislative history to the Act of 1958 and predecessor Civil Aeronautics Act of 1938, to suggest that section 503 of the Act mandates disclosure of confidential financial information. The purpose of section 503 of the Act is "* * * to create a central clearing house for recordation of title so that a person, wherever he may be, will know where he can find ready access to the claims against, or liens, or other legal interests in an aircraft." *Aircraft Trading And Services* v. *Braniff, Inc.* 819 F.2d 1227 at 1231 (2nd Cir. 1987), quoting language in *Philko Aviation, Inc.* v. *Shacket*, 462 U.S. 406 at 411 (1983), which language comes from house hearings leading to passage of the Civil Aeronautics Act of 1938.

To our knowledge, there is no case law that indicates that section 503 of the Act either requires disclosure of financial information or that a legislative purpose of section 503 of the Act was to provide information concerning financial fitness or safety of airlines.

In the FAA Assistant Chief Counsel's letter of September 27, 1993, he posed the question whether a document with schedules omitted is a "conveyance." That question is relevant because under section 503 of the Act, FAA records only "conveyances" as defined in section 101(20) of the Act.

Only a few commenters responded to the question. As previously noted, one attorney argued that a document which is anything less than the complete agreement of the parties is not a conveyance.

However, other commenters say that such a document may be a conveyance:

1. * * * so long as the provisions relating to the conveyance of title or interest are not redacted * * *.

2. Because a conveyance is similar to an enforceable sale of goods under UCC 2–201 which requires only a writing sufficient to show a contract of sale.

3. Because a "bare-bones conveyance" is sufficient.

4. Because such a conveyance is considered "acceptable by the Administrator."

We believe that such a document with certain, limited omissions or redactions is a conveyance. It would be difficult to explain why a 30-page, original lease signed by the parties is not a conveyance simply because a schedule showing stipulated loss values has been intentionally omitted. The fact that the parties to such a lease may also have reached agreement as to stipulated loss value (which they are unwilling to disclose) does not, in our judgment, make the lease submitted for recordation any less a conveyance.

The regulations which implement section 503 of the Act are set out in part 49 of the Federal Aviation Regulations (14 CFR part 49); § 49.1 is a restatement of section 503 of the Act. Section 49.31 is a restatement of the definition of "conveyance" in section 101(20) of the Act and includes release, cancellation, and discharges as authorized in section 503(b) of the Act.

Section 49.33 states the eligibility requirements of recording conveyances. As pertinent to this discussion, § 49.33(a) provides that a conveyance must be "in a form prescribed by, or acceptable to, the Administrator for that kind of conveyance."

Determinations of what are "* * *acceptable to, the Administrator," can be found in the Registry's Examination Guidelines, and in opinions of the Assistant Chief Counsel for the Aeronautical Center. There are no FAA guidelines which presently speak to the issue of recordability with omissions and redactions.

During the last 5 years law firms have routinely sought favorable opinions concerning the redaction of schedules containing confidential financial information. The Assistant Chief Counsel frequently finds such redactions acceptable.

Therefore, it appears, as one of the commenters has suggested, that certain redacted conveyances when submitted for recordation are in a form which has been found and continues to be found acceptable.

Section 49.33(c) provides that a conveyance must be an original or duplicate original document. As discussed earlier, there is no indication that a Congressional purpose would be defeated by allowing the withholding of certain financial information. Nor for that matter, does § 49.33(c) require that an original document or duplicate original document contain such information when no Congressional purpose would be served. Therefore, we regard an allowably redacted conveyance with ink signatures to meet the requirement for an "original or duplicate original document."

Based on the foregoing discussion, we believe that the recording of documents with limited redactions or omissions is not contrary to statute, regulation, or other directive.

We next turn to Locke Parnell's claim that rulemaking action is necessary in order to continue the practice of recording documents with omissions or redactions. Such action would include general notice of proposed rulemaking and the public's opportunity to participate in accordance with the Administrative Procedure Act, 5 U.S.C. 553 (b) and (c).

The Air Transport Association (ATA) has commented that: FAA has informally construed the Part 49 regulations to allow conveyance transactions to be recorded without certain sensitive information * * *.

ATA suggests that what FAA is doing is in the nature of interpreting section 503(a) of the Act and that "interpretative rules" are exempt under 5 U.S.C. 553(b)(A) from formal rulemaking requirements. ("General statements of policy" are also exempt under 5 U.S.C. 553(b)(A).)

Federal courts have applied various tests, singly or in combination, to attempt to distinguish between interpretative and legislative rules (e.g., "substantial impact;" "deference to agency label;" "legal effect;" "binding norm"). See Administrative Conference of the United States, A Guide To Federal Agency Rulemaking, 55–68 (2d ed. 1991), pages 55 through 68. More recently, in determining whether rules are either legislative or interpretative, courts have focused on the legal effect of the rules. See *e.g., American Min. Congress* v. *MSHA*, 995 F.2d 1106 (D.C. Cir. 1993). "A statute or legislative rule that actually establishes a duty or right is likely to be relatively specific (and the agency's refinement will be interpretative), whereas an agency's authority to create rights and duties will typically be relatively broad (and the agency's actual establishment of rights and duties will become an amendment merely because it supplies crisper and more detailed lines than the authority being interpreted). If that were so, no rule could pass as an interpretation of a legislative rule unless it were confined to parroting the rule or replacing the original vagueness with another." *Id.* at 1112. Consequently, the FAA's delineation of section 503(a) as permitting the continued recordation of conveyances with omissions or redactions of financial data is interpretative and not legislative in nature.

Finally, we note that a commenter suggests that the FAA should adopt a UCC-like approach and only require that a filed document indicate that a party has conveyed title to or has an interest in a civil aircraft. By this opinion, we intend only to affirm the continuation of permitting schedules containing confidential, proprietary information to be redacted or omitted from otherwise recordable documents. With respect to particular documents, the advice of the Assistant Chief Counsel for the Aeronautical Center should be sought.

Sincerely,

John H. Cassady,

*Deputy Chief Counsel.*

[FR Doc. 94–23368 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–M

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## Federal Highway Administration

**[FHWA Docket No. 94–26]**

## Availability of Documentation From the National Intelligent Vehicle Highway Systems (IVHS) Architecture Development Program; Request for Participation in Public Forums

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Department of Transportation is making publicly available the documentation from the first phase of the National IVHS Architecture Development Program. An independent Phase I Summary Report will be made publicly available as well.

Comments on these materials are requested from all who choose to review them. This notice also announces a series of regional forums to present these first phase results. The comments received through this announcement and at the forums will influence upcoming program decisions that shape the National IVHS Architecture in the second and final phase of the program.

**DATES:** Comments on the documents made available through this notice must be received by November 21, 1994. Late comments will be considered to the extent practicable.

The forums are scheduled as follows:

1. November 7, 1994, 8:00 a.m. to 4:30 p.m., Seattle, Washington.
2. November 8, 1994, 8:00 a.m. to 4:30 p.m., San Francisco, California.
3. November 8, 1994, 8:00 a.m. to 4:30 p.m., Denver, Colorado.
4. November 10, 1994, 8:00 a.m. to 4:30 p.m., Atlanta, Georgia.
5. November 10, 1994, 8:00 a.m. to 4:30 p.m., Los Angeles, California.
6. November 15, 1994, 8:00 a.m. to 4:30 p.m., College Station, Texas.
7. November 15, 1994, 8:00 a.m. to 4:30 p.m., Washington, D.C.
8. November 17, 1994, 8:00 a.m. to 4:30 p.m., Kansas City, Missouri.
9. November 17, 1994, 8:00 a.m. to 4:30 p.m., New York, New York.
10. November 18, 1994, 8:00 a.m. to 4:30 p.m., Chicago, Illinois.
11. November 18, 1994, 8:00 a.m. to 4:30 p.m., Boston, Massachusetts.

**ADDRESSES:** Submit written requests for the architecture documents and the Phase I Summary Report by October 3, 1994, to Mr. George Beronio, Federal Highway Administration (HTV–10), 400 Seventh Street, SW., Washington, DC 20590. Requests for the architecture documents must be accompanied by a check made payable to the FHWA in the amount of $225.00 as reimbursement for reproduction and shipping. There is no fee for the Phase I Summary Report. Please note that individual documents or subsets of this package of documents (other than the Phase I Summary Report) are not available through this announcement.

Submit written, signed comments on the documents and Summary Report to the FHWA Docket No. 94–26, Room 4232, HCC–10, Office of Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Beronio, Office of Traffic Management and Intelligent Vehicle Highway Systems Applications, phone (202) 366–6111, fax (202) 366–8712, Federal Highway Administration, HTV–10, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** The goal of the National IVHS Architecture Development Program is to document, by the summer of 1996, a nationwide framework for implementation of IVHS. The architecture will help achieve national compatibility of IVHS technologies and systems while allowing for regional flexibility in building actual systems. This national architecture will also integrate the broad range of services available to users of IVHS to achieve efficiencies in the use of communications and infrastructure resources, while maintaining enough openness in the system to foster a rich market for products and services that allows for innovation, expansion, and modernization over time.

Teams headed by Hughes Aircraft Company, Loral Federal Systems Group, Rockwell, and Westinghouse Electric Corporation were selected in September 1993 to independently develop four alternative system concepts, or "architectures," for a nationwide IVHS. The program is proceeding in two phases. Phase I, which will conclude in December 1994, has involved the definition and preliminary analysis of alternative concepts. It is the documentation products of this effort that are being made available through this announcement. The most promising concepts will be continued into an 18-month Phase II, which will focus on detailed analysis of these concepts and resolution of differences such that a single consensus architecture is produced and documented.

A complete set of 12 documents from each of the four study teams participating in this first phase of the architecture development will be made publicly available in mid-October 1994. A Phase I Summary Report containing educational background material, overviews of the four architectures, and additional detail on the implications of each approach will also be made available shortly thereafter.

The Phase I products available through this announcement are as follows: (1) Mission Definition, a discussion of each team's goals and philosophy, with a technical discussion of operational constraints each team perceives; (2) Vision Statement, a non-technical narrative depiction of the teams' conception of their architectures over the next 20 years in urban, inter-urban, and rural contexts; (3) Logical Architecture, a set of diagrams and textual statements describing the relationship between each architecture's functions and its information needs; (4) Physical Architecture, a further set of diagrams and specifications that transpose the logical architecture components onto the physical systems that make up IVHS; (5) Traceability Matrix, which ensures that all required high-level IVHS services are accounted for at the lowest levels of the architecture (both logical and physical); (6) Evolutionary Deployment Strategy, a three-tiered set of temporal snapshots (at 5, 10, and 20 years) of the architecture, and how the teams envision the progression from the present towards their final vision at the 20-year mark; (7) Architecture Evaluation Plan, which describes the method(s) used by each team in the analysis of its architecture; (8) Initial Cost Analysis, an attempt at pricing the various ways in which IVHS will be delivered through products and services, including a market analysis and suggestion of how "service packages" could be marketed; (9) Feasibility Study (including risk analysis) exploring the various technical and institutional risks to which each architecture is subject, and how each team proposes to mitigate these risks; (10) Analysis of Data Loading Requirements, exploring the wire and wireless communications demands on the architecture; (11) Initial Performance and Benefits Summary, a discussion of the ways in which each architecture contributes to the broader goals of IVHS; and (12) Preliminary Evaluation Results Summary, detailing the results of analysis, in particular the simulation modeling.

DOT is interested in the opinions of the public, industry, all levels of government, public and private transportation agencies, and other stakeholder organizations who review these documents. Specifically, DOT is interested in comments regarding the technical feasibility, user acceptability, and general viability of the four proposed architectures. Those who wish to provide comments only on the Phase I Summary Report are encouraged to do so as well.

The entire set of documents (except the Phase I Summary Report) can be obtained for $225.00, to cover the cost of reproduction and shipping. Those who wish to view the documents at no cost may do so at multiple locations throughout the United States; for dates

of availability and locations nearest to you, contact the FHWA at the address listed above under **FOR FURTHER INFORMATION CONTACT.** The Phase I Summary Report will be sent in late October, free of charge, to all who respond to this announcement. The Phase I Summary Report will also be available to all who attend the public forums.

A series of 11 public forums will be held during the second and third weeks of November 1994 to present the architectural approaches developed in the first phase of the architecture program, and to allow for stakeholder input based on the information presented. Dates and general locations of these forums are listed above under **DATES.** More information on these regional forums, including specific locations, may be obtained from the FHWA contact listed above.

The comments received as a result of this announcement, as well as the information obtained during the upcoming series of public forums, will be used in the process of selecting which of the four architecture concepts will continue into Phase II of the program. This second phase will begin in early 1995.

**Authority:** 23 U.S.C. 315; 49 CFR 1.48; Pub. L. 102–240, Secs. 6051–6059, 105 Stat. 1914, 2189–2195.

Issued on: September 15, 1994.

**Rodney E. Slater,**

*Federal Highway Administrator.*

[FR Doc. 94–23298 Filed 9–20–94; 8:45 am]

**BILLING CODE 4910–22–P**

## Federal Transit Administration

## Environmental Impact Statement for the Georgetown Branch Transitway and Trail, Montgomery County, MD

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

**ACTION:** Notice of intent to prepare an environmental impact statement (EIS).

**SUMMARY:** The Federal Transit Administration (FTA) and the Maryland Mass Transit Administration (MTA) intend to undertake an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). MTA will ensure that the EIS also satisfies the requirements of the Maryland Environmental Policy Act (MEPA).

This effort will be performed in cooperation with the Montgomery County Department of Transportation (MCDOT). Other key supporting agencies include the Metropolitan Washington Council of Governments (MWCOG), the Washington Metropolitan Area Transit Authority (WMATA), and the Maryland-National Capital Park and Planning Commission (M–NCPPC).

The EIS will evaluate transportation improvements in the corridor between the central business districts (CBDs) in Bethesda and Silver Spring, Maryland. In particular, the focus will be on the former CSX Railroad Georgetown Branch right-of-way (ROW) which has been purchased by Montgomery County. Additionally, the corridor will connect the Bethesda and Silver Spring Metrorail stations located in the respective CBDs. In addition to a proposed transitway, which may be either a busway or light rail transit in conjunction with a parallel hiker/biker trail, the EIS will evaluate the No-Build and the Transportation System Management (TSM) alternatives and any new alternatives generated through the scoping process. Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state, and local agencies, and through a public meeting. See **SUPPLEMENTARY INFORMATION** below for details.

**DATES:** Comment Due Date: Written comments on the scope of alternatives and impacts to be considered should be sent to the MTA by October 26, 1994. See **ADDRESSES** below.

Scoping Meeting: The public scoping meeting will be held on Wednesday, October 5, 1994, between 3 p.m. and 9 p.m. at the Armory Place. See **ADDRESSES** below. People with special needs should contact Lisa Colletti or Diane Melia at the MTA at the address below or by calling (410) 333–3376 or (410) 333–3389. A TDD number is also available: (410) 539–3497. The building is accessible to people with disabilities. It is located within two (2) blocks of the Silver Spring Metrorail station and is served by major Metrobus and Ride-On bus routes.

The meeting will be held in an "open-house" format and project representatives will be available to discuss the project throughout the time period given. Informational displays and written materials will also be available throughout the time period given. In addition to written comments which may be made at the meeting or as described below, a stenographer will be available at the meeting to record comments.

**ADDRESSES:** Written comments on project scope should be sent to Mr. Ernest Baisden, Project Manager, Maryland Mass Transit Administration, 300 West Lexington Street, Baltimore, MD 21201. The Scoping meeting will be held at the following location: Armory Place, 925 Wayne Avenue, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Mr. John T. Garrity, Jr., Transportation Program Specialist, Federal Transit, Administration, Region III, (215) 656–6900.

**SUPPLEMENTARY INFORMATION:**

### I. Scoping

FTA and the MTA invite interested individuals, organizations, and federal, state, and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives. Scoping comments may be made at the public scoping meeting or in writing. See **DATES** and **ADDRESSES** sections above for locations and times. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives which are more cost effective or have less environmental impact while achieving similar transit objectives.

Scoping materials will be available at the meeting or in advance of the meeting by contacting Lisa Colletti or Diane Melia at the MTA as indicated above.

### II. Description of Study Area and Project Need

The study area and corridor is wholly within Montgomery County. It is approximately 4½ miles long and connects the CBDs of Bethesda and Silver Spring. The corridor also connects two heavily used Metro stations and two major employment centers.

Existing transit service in the study area is provided by Ride-On and Metrobus. Existing traffic is primarily carried by East-West Highway (MD 410) with high traffic volumes and poor level-of-service at many of the signalized intersections.

The proposed transitway is intended to provide a high quality connection between the two branches of the Metro Red Line; to support economic viability of the Bethesda and Silver Spring CBDs through greater transit accessibility; contribute to higher transit modal splits for work trips to the CBDs and employment centers; improve cross-county movement by public transportation to help achieve regional clean air goals; and improve travel time in the Bethesda-Silver Spring corridor including improved access to the

Bethesda and Silver Spring Metrorail stations.

### III. Alternatives

The alternatives proposed for evaluation include: No-Build which involves no change to transportation services or facilities in the corridor beyond those improvements currently programmed; the TSM alternative which focuses on operational and low-cost capital improvements to transit routes and services in the corridor; the light rail transit (LRT) alternative which consists of providing light rail service along the 4.4 mile right-of-way, primarily using single-track with double-track passing sections, with a parallel hiker/biker trail; and the busway alternative which consists of providing bus service along the 4.4 mile right-of-way with a parallel hiker/biker trail. Five stations are proposed for both the light rail transit and busway alternatives: Bethesda, Connecticut Avenue, Lyttonsville, Spring Street, and Silver Spring, with future stations to be studied for operational feasibility.

### IV. Probable Effects

FTA and MTA plan to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives. Among the primary issues are the expected increase in transit ridership, the expected increase in mobility for the corridor's transit dependent, the support of the region's air quality goals, the capital outlays needed to construct the project, the cost of operating and maintaining the facilities created by the project, and the financial impacts on the funding agencies. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, health and safety impacts, impacts on wetland and parkland areas, and noise and vibration impacts. Impacts on natural areas, rare and endangered species, and air and water quality, will also be covered. The impacts will be evaluated both for the construction period and for the long term period of operations. Measures to mitigate adverse impacts will be identified.

### V. FTA Procedures

In accordance with federal transportation planning regulations (23 CFR Part 450), the draft EIS will be prepared in conjunction with a major transportation investment study and document the results of that study, including an evaluation of the social, economic, and environmental impacts of the alternatives. Upon completion of the MIS/DEIS, and on the basis of the comments received, the MTA Administrator in concert with the Secretary of the Maryland Department of Transportation (MDOT) and in consultation with Montgomery County, MWCOG, and other affected agencies, will select a locally preferred alternative. Then MTA, as lead agency, will seek to continue with further preliminary engineering and preparation of the Final EIS.

Issued on: September 15, 1994.

**Sheldon A. Kinbar,**

*Regional Administrator.*

[FR Doc. 94–23299 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–57–P

# Sunshine Act Meetings

Federal Register
Vol. 59, No. 182
Wednesday, September 21, 1994

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 COMMUNICATIONS COMMISSION

Erratum

FCC Open Commission Meeting, Monday, September 19, 1994

Information appearing in Item No. 3 of subjects to be considered at the September 19 Open Meeting of the Federal Communications Commission is corrected to change the rulemaking number to "RM–8143."

*Item No., Bureau, and Subject*

3—Common Carrier—Title: Amendment of Part 68 of the Commission's Rules Concerning Compatibility of PBX and KTS Systems with Enhanced Emergency Calling Systems (RM–8143) and Inquiry into the Compatibility of Wireless Services with Enhanced Emergency Calling Systems.

Dated: September 16, 1994.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 94–23396 Filed 9–16–94; 4:23 pm]

BILLING CODE 6712–01–M

## FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:30 a.m. on Monday, September 26, 1994, to consider the following matter:

Memorandum and resolution re: Revised proposed amendments to Part 345 of the Corporation's rules and regulations, entitled "Community Reinvestment," which would provide clearer guidance to financial institutions on the nature and extent of their Community Reinvestment Act obligation and the methods by which the obligation would be assessed and enforced.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3132 (Voice); (202) 942–3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Acting Executive Secretary of the Corporation, at (202) 898–6757.

Dated: September 19, 1994.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Acting Executive Secretary.*

[FR Doc. 94–23542 Filed 9–19–94; 4:00 pm]

BILLING CODE 6714–01–M

## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 2:00 p.m., Monday, September 26, 1994.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

*Summary Agenda*

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that the items be moved to the discussion agenda.

1. Publication for comment of proposed amendments to the Board's risk-based capital guidelines for state member banks and bank holding companies regarding country risk transfer treatment.

2. (a) Request by Fleet Financial Group, Inc., Providence, Rhode Island, for an exemption from the anti-tying provisions of section 106 of the Bank Holding Company Act; and (b) a related proposed amendment for public comment to modify Regulation Y (Bank Holding Companies and Change in Bank Control) to apply the exemption to all banks.

*Discussion Agenda*

3. Publication for comment of a revised proposal to amend Regulation BB (Community Reinvestment) (proposed earlier for comment; Docket No. R–0822) and related conforming amendments to Regulation C (Home Mortgage Disclosure).

4. Any items carried forward from a previously announced meeting.

**Note:** This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 19, 1994.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 94–23501 Filed 9–19–94; 2:16 pm]

BILLING CODE 6210–01–P

federal register

Wednesday
September 21, 1994

Part II

# Environmental Protection Agency

40 CFR Parts 80, 85, 86, 88 and 600
Standards for Emissions From Natural Gas-Fueled, and Liquefied Petroleum Gas-Fueled Motor Vehicles and Motor Vehicle Engines, and Certification Procedures for Aftermarket Conversions; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 80, 85, 86, 88 and 600**

**[AMS–FRL–4832–8]**

# Standards for Emissions From Natural Gas-Fueled, and Liquefied Petroleum Gas-Fueled Motor Vehicles and Motor Vehicle Engines, and Certification Procedures for Aftermarket Conversions

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

**ACTION:** Final rule.

**SUMMARY:** Today's rule provides emission standards and test procedures for the certification of new natural gas-fueled, and liquefied petroleum gas-fueled light-duty vehicles, light-duty trucks, heavy-duty engines and vehicles, and motorcycles. The regulations are effective with the 1997 model year, although optional certification prior to the 1997 model year will be available. Today's rule also provides fuel economy test procedures and calculation equations for natural gas-fueled light-duty vehicles and trucks, effective upon publication, to allow these vehicles to be included in a manufacturer's corporate average fuel economy (CAFE). Finally, today's rule provides procedures for the certification of aftermarket conversion equipment to allow a vehicle or engine to operate completely or in part on a fuel other than the fuel for which it was originally designed and manufactured.

This action is being taken in order to remove the possibility that the absence of such standards could hinder the development of natural gas and liquefied petroleum gas as transportation fuels. These standards are intended to provide a comparable degree of environmental protection to that afforded by the standards applicable to gasoline, diesel and methanol vehicles, and to ensure that aftermarket conversions do not degrade the emissions performance of the vehicles or engines being converted.

**DATES:** Except as specified elsewhere in this **DATES** section, this final rule is effective September 21, 1994.

The effective date of §§ 80.32, 80.33, 86.001–9(d)(1)(iv), 86.001–28(h), 86.004–9(d)(1)(iv), 86.004–28(h), 86.098–8(d)(1)(iv), 86.098–28(h), 86.099–8(d)(1)(iv), 86.150–98(d) and 86.157–98 is November 21, 1994, unless notice is received by October 21, 1994 that interested parties wish to submit adverse or critical comments on these sections. If the effective date is changed, timely notice will be published in the **Federal Register.**

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 1994, except as specified elsewhere in this **DATES** section.

40 CFR 85.503, 85.505, 86.542–90, 86.094–23, 86.095–24, 86.095–35, 86.1242–90, 86.098–28, 86.113–94, 86.1344–94, 86.142–90, 86.150–98, 86.513–94 and 600.113–93 are not effective until the Office of Management and Budget (OMB) has approved the information collection requirements contained in them. A document will be published in the **Federal Register** when OMB has approved the information collection requirements.

**ADDRESSES:** Written comments on those sections effective November 21, 1994 should be submitted both to the contact person for this rule (see **FOR FURTHER INFORMATION CONTACT**) and to the docket for this rulemaking at the following address. Materials relevant to this rule have been placed in Docket No. A–92–14 by EPA. The docket is located at: Air Docket Section, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected between 8 a.m. and 4 p.m. on weekdays. EPA may charge a reasonable fee for copying docket materials. In addition, copies of the Summary and Analysis of Comments document, which develops certain issues relevant to this final rulemaking, may be obtained by request from the contact person below. This document contains the Agency's response to the public comments received in regard to the Notice of Proposed Rulemaking (NPRM).

**FOR FURTHER INFORMATION CONTACT:** Mr. John Mueller, Regulation Development and Support Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105: phone (313) 668–4275. To obtain copies of this final rule or the Summary and Analysis of Comments document please contact Ms. Donna Hoover at (313) 668–4278 or at the above address.

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

Recently there has been increasing interest in the use of non-petroleum transportation fuels for a variety of reasons, including the potential environmental benefits offered by these fuels. Natural gas and liquefied petroleum gas (LPG) are among the more prominent of these fuels, along with methanol and ethanol. EPA promulgated emission standards for methanol-fueled vehicles on April 11, 1989 (54 FR 14426) due to the imminent commercialization of those vehicles. However, there are currently no emission standards in place for vehicles which operate, all or in part, on natural gas and LPG. This lack of standards is seen as a potential barrier to the widespread commercial introduction of these vehicles into the marketplace due to the uncertainties the manufacturers face regarding potential future standards where EPA has not yet addressed any of the issues involved. In addition, the recent rise in interest in these fuels has resulted in increased interest in aftermarket conversions (*i.e.*, the conversion of a vehicle or engine to operate on a fuel other than that for which it was originally designed and certified to operate). Again, the lack of defined certification procedures for conversions, as well as the absence of a method to demonstrate good emissions performance of such conversions, are seen as potential barriers to their more widespread use for two reasons. First, the lack of defined certification

procedures leads to uncertainty among converters as to whether the conversions they perform constitute tampering and result in the potential associated liability. Second, the potential for environmental benefits associated with gaseous fuels has led to increased interest in marketing conversions as an environmental strategy. The lack of a recognized procedure for confirming emissions performance has been seen as hindering efforts to market conversions in this manner. Thus, in order to remove these potential barriers EPA published a Notice of Proposed Rulemaking (NPRM) proposing emission standards for natural gas and LPG vehicles, and certification procedures for aftermarket conversions on November 5, 1992 (57 FR 52912).

A public hearing was held on December 3, 1992, in Ann Arbor, Michigan at which verbal comments on the NPRM were received. Written comments responding to the proposal were also received from 34 public and private parties. The Agency fully considered all comments received in developing today's final rule.

The remaining sections of this preamble describe EPA's resolution of the issues associated with the rulemaking. Section II describes today's action and summarizes the new requirements. Section III reviews the major comments received on the NPRM and the Agency's analysis of those comments. Subsequent sections summarize the technical feasibility, leadtime requirements, environmental effects, and economic effects associated with today's action.

## II. Description of Action

This section describes each provision of today's rule. In general, today's rule extends the coverage of the existing federal motor vehicle emissions program to include natural gas and LPG vehicles (hereinafter referred to as gaseous-fueled vehicles). As such, EPA's current regulations governing certification, production line, and in-use requirements are for the most part adopted for gaseous-fueled vehicles. Rather than present an exhaustive review of the entire federal emissions program, this section contains a basic description of the gaseous-fueled vehicle regulations and highlights where these regulations differ from those currently in place for other vehicles. For additional information on the new or existing program requirements the reader is referred to the accompanying regulations appearing at the end of today's notice, and Title 40, parts 80, 85, 86, 88 and 600 of the Code of Federal Regulations, which this rulemaking amends.

### *A. Timing*

EPA proposed that these standards be effective with the 1994 model year, and explained that the Agency did not expect that significant lead-time for developing emission control technology would be required for compliance. Nonetheless, because this rule is not being promulgated until after the start of the 1994 model year, EPA no longer believes that there is sufficient time to certify vehicles and engines pursuant to these regulations for the 1994 model year. Further, EPA received several comments stating that leadtime was required for technology development, especially for durability demonstration, in addition to that required for the certification process alone. Therefore, EPA is promulgating the standards to be effective with the 1997 model year. Finally, the refueling requirements for gaseous-fueled vehicles will be implemented consistent with the recently finalized refueling emission standards for other vehicles (three year phase-in beginning with the 1998 model year for light-duty vehicles and the 2001 model year for light-duty trucks).[1] The requirements for refueling stations will take effect on January 1, 1998 for large volume stations, with a two year delay until January 1, 2000 for those stations which dispense less than 10,000 gallons per month on a gasoline equivalent basis. This phase in for smaller stations is consistent with the approach taken with the dispensing rate limits placed on gasoline refueling stations contained in the evaporative emissions final rule.[2]

EPA proposed that manufacturers be allowed to certify engines and vehicles produced prior to the effective model year in order to include engines in the emissions trading and banking program, and to include vehicles in manufacturers' corporate average fuel economy. EPA received no adverse comments on this aspect of the proposal. For this reason, manufacturers may choose to comply prior to the 1997 model year, including the 1994 model year.

Including 1994 model year engines in the emissions trading and banking program and raises an issue whether engines manufactured in model year 1994 prior to the promulgation of this rule may be included in the program. A similar situation was confronted in the original banking and trading rule. There, EPA allowed banking for the full 1990 model year, even though the rule was promulgated on July 26, 1990. *See* 55 FR 30584, 30587. In that case, EPA placed certain restrictions on the inclusion of 1990 model year engines, to ensure credits were only given for significant reductions below the 1990 standards. This was to ensure that "windfall" credits from exceeding the arguably "lax" pre-1991 standards would not be used in the transition to the more stringent 1991 standards. As a result, if no restrictions on trading and banking were imposed, then the engines that had always exceeded the 1990 standards would for the first time be able to use the extra reductions as "windfall" credits to offset engines that did not yet meet the new and more stringent 1991 standards. *See* 55 FR at 30597.

EPA does not believe such restrictions are necessary in this case. Since 1991, engines using other fuels, such as methanol, have been able to generate credits to offset higher emitting engines. EPA believes that gaseous-fueled engines should have an equal opportunity to use such credits as gasoline-, diesel-, and methanol-fueled engines, now that emissions standards and test procedures are in place in time for the 1994 model year. As EPA explained in the response to comments in the trading and banking final rule, CNG engines were not included at that time due to the absence of standards, test procedures, and certification protocols. *See id* at 30609. Now that these rules are in place, there is no longer any reason to disadvantage CNG engines vis a vis other fuels.

In addition, EPA does not believe that the credits manufacturers might obtain from gaseous-fueled engines are "windfall," since they arguably would not have manufactured such engines in model year 1994 but for EPA's actions to provide an incentive to do so. Rather, EPA believes manufacturers had an incentive to manufacture gaseous-fueled engines based on EPA actions prior to this final rule. EPA proposed these standards in November 1992, and began developing these standards substantially before that. EPA believes this overall incentive further supports allowing manufacturers to include all 1994 model year engines in the trading and banking program.

The aftermarket conversion certification procedures contained in today's rule are available to converters as a way of obtaining an exemption from the tampering prohibition. Since this procedure creates an exemption and is optional it will be available upon publication in the **Federal Register**. EPA's current policy toward conversions will continue to apply to aftermarket conversions which have not

[1] 59 FR 16262, April 6, 1994.

[2] 58 FR 16002, March 24, 1993.

received an exemption under this new program.[3]

The Administrative Procedure Act requires 30 days notice before a rule may become effective, except under certain circumstances such as when the rule recognizes an exemption or when the Agency can demonstrate good cause for immediate effect. The Agency believes it has good cause for this rule to take immediate effect in the case of the new vehicle standards since compliance with the new vehicle standards is optional until well after the 30 day period. In the case of aftermarket conversions, because this rule creates an exemption from the tampering prohibition under section 203 of the Act it does not require 30 days notice, and this exemption will be available upon publication in the **Federal Register**.

*B. New Vehicle Standards*

The new gaseous-fueled vehicle and engine emission standards contained in today's notice are effective with the 1997 model year. Optional compliance prior to the 1997 model year is available to manufacturers who wish to include their vehicles and engines in emissions averaging, trading and banking programs, as well as the CAFE program in the case of natural gas-fueled vehicles.

In general, the Agency seeks to control vehicles operated on alternative fuels so that their emissions are no greater than their petroleum-fueled counterparts. Thus, the exhaust emission standards for gaseous-fueled vehicles are numerically equivalent to those which apply to other, currently regulated vehicles and engines. The only significant departure from this approach is in the area of hydrocarbon (HC) standards for natural gas fueled vehicles and engines. Prior to the 1994 model year, regulated vehicles (*i.e.*, gasoline, petroleum diesel and methanol) are only required to meet total hydrocarbon (THC) standards. However, beginning with the 1994 model year, currently regulated light-duty vehicles and light-duty trucks will also be required to meet separate nonmethane hydrocarbon (NMHC) standards as part of the Tier 1 requirements of the Clean Air Act.[4] For natural gas-fueled light-duty vehicles and light-duty trucks only the NMHC standards will apply. In the case of natural gas-fueled heavy-duty engines, NMHC standards which provide the same degree of NMHC control as the current THC standards provide for petroleum-fueled vehicles will apply. In the case of LPG vehicles and engines, the HC standards are the same as those for currently regulated vehicles. A summary of today's gaseous-fueled vehicle emission standards is contained in Tables 1 through 4.

TABLE 1.—EMISSION STANDARDS FOR 1997 AND LATER MODEL YEAR GASEOUS-FUELED LIGHT-DUTY VEHICLES (G/MI)[1]

| Fuel | Standards[2] | THC | NMHC | CO | $NO_x$ | PM[3] | Evaporative hydrocarbons (g/test) |
|---|---|---|---|---|---|---|---|
| **Intermediate Useful Life Standards[4]** | | | | | | | |
| Natural Gas | Tier 0 | ..... | 0.34 | 3.4 | 1.0 | 0.20 | 2.0 |
| Natural Gas | Tier 1 | ..... | 0.25 | 3.4 | 0.4 | 0.08 | 2.0 |
| LPG | Tier 0 | 0.41 | ..... | 3.4 | 1.0 | 0.20 | 2.0 |
| LPG | Tier 1 | 0.41 | 0.25 | 3.4 | 0.4 | 0.08 | 2.0 |
| **Full Useful Life Standards[5]** | | | | | | | |
| Natural Gas | Tier 1 | ..... | 0.31 | 4.2 | 0.6 | 0.10 | ..... |
| LPG | Tier 1 | ..... | 0.31 | 4.2 | 0.6 | 0.10 | ..... |

[1] Crankcase emissions are prohibited. Standards apply at all altitudes. For Tier 1 standards, vehicles are required to meet both the intermediate and full useful life standards.

[2] The Tier 1 standards apply to 40 percent of a manufacturer's optionally certified 1994 model year vehicles, 80 percent of optionally certified 1995 vehicles, and 100 percent of optionally certified 1996 vehicles. The Tier 0 standards apply to optionally certified pre-1996 model year vehicles not covered by the Tier 1 standards.

[3] Tier 0 particulate standards apply to diesel-cycle vehicles only. Tier 1 particulate standards apply to all vehicles.

[4] Five years or 50,000 miles, whichever occurs first.

[5] Ten years or 100,000 miles, whichever occurs first. No full useful life Tier 0 standards.

TABLE 2.—EMISSIONS STANDARDS FOR 1997 AND LATER MODEL YEAR GASEOUS-FUELED LIGHT LIGHT-DUTY TRUCKS(G/MI)[1]

| Fuel | LVW (lb)[2] | Standards[3] | THC | NMHC | CO | $NO_x$ | PM[4] | Idle CO (% conc.) | Evaporative hydrocarbons (g/test) |
|---|---|---|---|---|---|---|---|---|---|
| **Intermediate Useful Life Standards[5]** | | | | | | | | | |
| Natural Gas | 0–3750 | Tier 1 | ..... | 0.25 | 3.4 | 0.4 | 0.08 | ..... | ..... |
| Natural Gas | 3751–5750 | Tier 1 | ..... | 0.32 | 4.4 | 0.7 | 0.08 | ..... | ..... |
| LPG | 0–3750 | Tier 1 | ..... | 0.25 | 3.4 | 0.4 | 0.08 | ..... | ..... |

[3] See March 4, 1993 Fact Sheet available in the public docket.

[4] The Agency uses the phrase "Tier 1" to denote the 1994 and later model year standards in part because they are nearly identical to the Tier 1 standards prescribed by section 202(g) of the Clean Air Act for petroleum-fueled vehicles (56 FR 25724, June 5, 1991). Use of this phrase is not meant to suggest that gaseous-fueled vehicles are subject to the section 202(g) Tier 1 standards.

TABLE 2.—EMISSIONS STANDARDS FOR 1997 AND LATER MODEL YEAR GASEOUS-FUELED LIGHT LIGHT-DUTY TRUCKS(g/mi) [1]—Continued

| Fuel | LVW (lb) [2] | Standards [3] | THC | NMHC | CO | $NO_x$ | PM [4] | Idle CO (% conc.) | Evaporative hydrocarbons (g/test) |
|---|---|---|---|---|---|---|---|---|---|
| LPG | 3751–5750 | Tier 1 | | 0.32 | 4.4 | 0.7 | 0.08 | | |
| **Full Useful Life Standards [6]** | | | | | | | | | |
| Natural Gas | 0–3750 | Tier 0 | | 0.67(0.83) | 10(14) | 1.2 | 0.26 | 0.50 | 2.0(2.6) |
| Natural Gas | 0–3750 | Tier 1 | | 0.31 | 4.2 | 0.6 | 0.10 | 0.50 | 2.0(2.6) |
| Natural Gas | 3751–5750 | Tier 0 | | 0.67(0.83) | 10(14) | 1.7 | 0.13 | 0.50 | 2.0(2.6) |
| Natural Gas | 3751–5750 | Tier 1 | | 0.40 | 5.5 | 0.97 | 0.10 | 0.50 | 2.0(2.6) |
| LPG | 0–3750 | Tier 0 | 0.80(1.0) | | 10(14) | 1.2 | 0.26 | 0.50 | 2.0(2.6) |
| LPG | 0–3750 | Tier 1 | 0.80 | 0.31 | 4.2 | 0.6 | 0.10 | 0.50 | 2.0(2.6) |
| LPG | 3751–5750 | Tier 0 | 0.80(1.0) | | 10(14) | 1.7 | 0.13 | 0.50 | 2.0(2.6) |
| LPG | 3751–5750 | Tier 1 | 0.80 | 0.40 | 5.5 | 0.97 | 0.10 | 0.50 | 2.0(2.6) |

[1] Crankcase emissions are prohibited. Standards in parenthesis apply to vehicles sold in specified high-altitude counties. For the Tier 1 standards, vehicles are required to meet both the intermediate and full useful life standards.

[2] Loaded vehicle weight (i.e., curb weight plus 300 lb.).

[3] The Tier 1 standards apply to 40 percent of a manufacturer's optionally certified 1994 model year vehicles, 80 percent of optionally certified 1995 vehicles, and 100 percent of optionally certified 1996 model year vehicles. The Tier 0 standards apply to optionally certified pre-1996 model year vehicles not covered by the Tier 1 standards.

[4] Tier 0 particulate standards apply to diesel-cycle vehicles only. Tier 1 particulate standards apply to all vehicles, but are phased in beginning one year later than the other Tier 1 standards.

[5] Five years or 50,000 miles, whichever occurs first.

[6] For Tier 0 standards eleven years or 120,000 miles, whichever occurs first. For Tier 1 standards ten years or 100,000 miles, whichever occurs first.

TABLE 3.—EMISSIONS STANDARDS FOR 1997 AND LATER MODEL YEAR GASEOUS-FUELED HEAVY LIGHT-DUTY TRUCKS (G/MI) [1]

| Fuel | Weight [2] | Standards [3] | THC | NMHC | CO | $NO_x$ | PM [4] | Idle CO (% conc.) | Evaporative hydrocarbons (g/test) |
|---|---|---|---|---|---|---|---|---|---|
| **Intermediate Useful Life Standards [5]** | | | | | | | | | |
| Natural Gas | 3751–5750 | Tier 1 | | 0.32 | 4.4 | 0.7 | | | |
| Natural Gas | >5750 | Tier 1 | | 0.39 | 5.0 | 1.1 | | | |
| LPG | 3751–5750 | Tier 1 | | 0.32 | 4.4 | 0.7 | | | |
| LPG | >5750 | Tier 1 | | 0.39 | 5.0 | 1.1 | | | |
| **Full Useful Life Standards [6]** | | | | | | | | | |
| Natural Gas | 0–3750 | Tier 0 | | 0.67(0.83) | 10(14) | 1.2 | 0.26 | 0.50 | 2.0(2.6) |
| Natural Gas | >3750 | Tier 0 | | 0.67(0.83) | 10(14) | 1.7 | 0.13 | 0.50 | 2.0(2.6) |
| Natural Gas | 3751–5750 | Tier 1 | | 0.46 | 6.4 | 0.98 | 0.10 | 0.50 | 2.0(2.6) |
| Natural Gas | >5750 | Tier 1 | | 0.56 | 7.3 | 1.53 | 0.12 | 0.50 | 2.0(2.6) |
| LPG | 0–3750 | Tier 0 | 0.80(1.0) | | 10(14) | 1.2 | 0.26 | 0.50 | 2.0(2.6) |
| LPG | >5750 | Tier 0 | 0.80(1.0) | | 10(14) | 1.7 | 0.13 | 0.50 | 2.0(2.6) |
| LPG | 3751–5750 | Tier 1 | 0.80(1.0) | 0.46 | 6.4 | 0.98 | 0.10 | 0.50 | 2.0(2.6) |
| LPG | >5750 | Tier 1 | 0.80(1.0) | 0.56 | 7.3 | 1.53 | 0.12 | 0.50 | 2.0(2.6) |

[1] Crankcase emissions are prohibited. Standards in parentheses apply to vehicles sold in specified high-altitude counties. For the Tier 1 standards, vehicles are required to meet both the intermediate and full useful life standards.

[2] For Tier 0 standards the weight classification is loaded vehicle weight (i.e., curb weight plus 300 lb). For Tier 1 standards the weight classification is adjusted loaded vehicle weight (i.e., the average of curb weight and gross vehicle weight).

[3] The Tier 1 standards apply to 50 percent of a manufacturer's optionally certified 1996 model year vehicles, and 100 percent of 1997 and later vehicles. The Tier 0 standards are optional before the 1995 model year and apply to optionally certified 1995 and 1996 model year vehicles not covered by the Tier 1 standards.

[4] The Tier 0 particulate standards apply to diesel-cycle vehicles only. The Tier 1 particulate standards apply to all vehicles, but are phased in beginning one year later than the other Tier 1 standards.

[5] Five years or 50,000 miles, whichever occurs first.

[6] Eleven years or 120,000 miles, whichever occurs first.

TABLE 4.—EMISSIONS STANDARDS FOR 1997 AND LATER MODEL YEAR GASEOUS-FUELED HEAVY-DUTY ENGINES G/BHP-HR [1]

| Fuel | Combustion cycle | GVW | THC | NMHC | CO | $NO_X$ [2] | PM | Idle CO (% conc.) | Evaporative hydrocarbons (g/test) |
|---|---|---|---|---|---|---|---|---|---|
| Natural Gas | Otto | 8501–14000 | ..... | 0.9 | 14.4 | 5.0 | ..... | 0.50 | 3.0 |
| Natural Gas | Otto | >14000 | ..... | 1.7 | 37.1 | 5.0 | ..... | 0.50 | 4.0 |
| LPG | Otto | 8501–14000 | 1.1 | ..... | 14.4 | 5.0 | ..... | 0.50 | 3.0 |
| LPG | Otto | >14000 | 1.9 | ..... | 37.1 | 5.0 | ..... | 0.50 | 4.0 |
| Natural Gas | Diesel | 8501–14000 | ..... | 1.2 | 15.5 | 5.0 | [3]0.10 | 0.50 | 3.0 |
| Natural Gas | Diesel | >14000 | ..... | 1.2 | 15.5 | 5.0 | [3]0.10 | 0.50 | 4.0 |
| LPG | Diesel | 8501–14000 | 1.3 | ..... | 15.5 | 5.0 | [3]0.10 | 0.50 | 3.0 |
| LPG | Diesel | >14000 | 1.3 | ..... | 15.5 | 5.0 | [3]0.10 | 0.50 | 4.0 |

[1] g/BHP-hr = grams per brake horsepower hour. Crankcase emissions are prohibited beginning with the 1998 model year.
[2] The $NO_X$ standard is 4.0 g/BHP-hr for all 1998 and later model year HDEs.
[3] For optional compliance prior to the 1997 model year this standard is 0.10 g/BHP-hr for the 1994 and later model year, except for urban bus engines. For urban bus engines the optional standards are 0.07 g/BHP-hr for the 1994 and 1995 model years, and 0.05 g/BHP-hr for the 1996 model year. The required standard for 1997 and later model year urban bus engines is 0.05 g/BHP-hr.

For the purposes of these standards, the current scheme of classifying vehicles as either Otto-cycle or diesel is being extended to gaseous-fueled vehicles, with some modifications as described below. This classification scheme was promulgated with the methanol standards to group engines regardless of fuel type in a manner that would provide equivalent control.

Although there are other factors to consider, in general an Otto-cycle engine is considered to be one that is throttled during normal operation whereas a diesel is not. The Agency recognizes, however, that in some cases this criterion may not be adequate or appropriate to determine a vehicle's classification. For example, a gaseous-fueled engine which is derived from a particular Otto-cycle or diesel base engine, and is expected to be used in similar applications as the base engine, would most appropriately be classified the same as the base engine from which it was derived. In such cases the Administrator will take into account other relevant factors, such as compression ratio, combustion and thermodynamic characteristics, or intended in-use duty cycle when classifying the vehicle.

Today's rule establishes the same evaporative emission requirements for gaseous-fueled vehicles which were recently adopted for other vehicles.[5] The Agency recognizes that due to the sealed nature of gaseous-fueled vehicle fuel systems, emissions of unburned fuel from the fuel system are expected to be near-zero. However, the evaporative requirements are being adopted to assure leak-free fuel systems.

[5] 58 FR 16002, March 24, 1993.

Today's rule establishes refueling requirements for gaseous-fueled light-duty vehicles and light-duty trucks, as well as refueling stations. Natural gas-fueled vehicles must be equipped with a refueling receptacle which meets the requirements of the recently adopted ANSI/AGA NGV1 standard for refueling couplings. Natural gas refueling stations will not be allowed to vent more than 1.2 grams natural gas due to refueling nozzle disconnect. The applicable dates for these standards are discussed in the timing section of today's rule.

For LPG vehicles there are two requirements. First, all LPG vehicle refueling stations will be required to use nozzles which have very low dead volume (2.0 $cm^3$) from which fuel would be vented upon nozzle disconnect. This requirement was derived from the recently promulgated onboard refueling vapor recovery standard. For a complete description of the derivation please consult the summary and analysis of comments document. Second, LPG-fueled light-duty vehicles and light-duty trucks will be subject to the onboard refueling emission standards, adjusted for the difference in LPG energy density as compared to gasoline. This adjusted standard is 0.15 grams per gallon of LPG dispensed. The applicable dates for these standards are discussed in the timing section of today's rule. Additionally, for any LPG vehicle that contains a fixed liquid level valve (i.e., "outage valve"), the refueling test will be performed with the liquid level valve in the open position unless the manufacturer can demonstrate to the satisfaction of the Administrator, that the fixed liquid level gauge would not be opened during refueling in ordinary use due to inaccessibility or other reasons.

EPA recognizes that, although it did propose the control of refueling emissions from gaseous-fueled vehicles, the proposal did not include specific numerical standards as contained in today's rule. However, EPA believes that this action will be noncontroversial, and the Agency anticipates no significant comments regarding it.

Nonetheless, the public is advised that these elements of today's action dealing with refueling emissions will be effective 60 days from the date of this **Federal Register** notice, unless notice is received within 30 days that interested parties wish to submit adverse or critical comments on that element of this action. If such notice is received, this action will be withdrawn and two subsequent notices will be published. One notice, which would be published before the effective date, will withdraw the final action. Another notice will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

There is reason to believe that, in the case of some of the above-mentioned pollutants and vehicle classes, the levels of emissions will normally be substantially below the levels of the applicable standards. In such cases today's rule includes provisions for a waiver of certification testing requirements which allow a manufacturer to certify the vehicle or engine without performing the actual certification testing for which a waiver has been granted, similar to the waivers available for heavy-duty diesel engine CO, methanol vehicle and engine smoke and particulate, and Otto-cycle light-duty vehicle and light-duty truck

particulate standards.[6] A certification testing waiver can be obtained by demonstrating that, by virtue of a vehicle's design, it will always meet the standard for which the waiver was granted. This demonstration can be in the form of development testing data or other engineering data. It should be noted that these waivers only apply to certification testing requirements and do not relieve the manufacturer of liability for meeting the standard. Vehicles which have been certified using these waiver provisions also remain subject to selective enforcement audit (SEA) and in-use testing. The waivers provided in today's rule are available for all gaseous-fueled vehicle evaporative and refueling standards, gaseous-fueled heavy-duty diesel CO (including idle CO), particulate and smoke standards, and particulate standards for light-duty vehicles and light-duty trucks.

Today's rule allows gaseous-fueled vehicles to demonstrate compliance with emission standards through averaging, trading and banking in the same manner as vehicles operated on other fuels. Gaseous-fueled vehicles will be treated similarly to methanol-fueled vehicles with respect to the constraints of the various programs. For a more detailed discussion of how gaseous-fueled vehicles fit into these programs please consult the public docket for this rulemaking.[7] As explained above, in addition to new vehicles and engines, today's rule allows manufacturers to include in the averaging, trading and banking programs 1994 model year vehicles and engines manufactured before the rule's effective date, but identical to 1994 model year vehicles and engines manufactured after the effective date.

Today's rule delays the applicability of federal on-board diagnostics (OBD) requirements for natural gas-fueled light-duty vehicles and light-duty trucks until the 1998 model year. As finalized in the February 19, 1993 OBD rule[8] those requirements were scheduled to take effect with the 1994 model year for all vehicles for which emission standards exist. However, due to the feasibility issues unique to natural gas-fueled vehicles, these requirements are being delayed until the 1998 model year. OBD I requirements will apply to natural gas vehicles in the 1997 model year, as well as those natural gas vehicles optionally certified prior to the 1997 model year. The OBD requirements contained in the OBD rule will apply to liquefied petroleum gas-fueled light-duty vehicles and light-duty trucks beginning with optionally certified vehicles in the 1994 model year.

*C. Certification Test Fuel Specification*

The certification test fuels in today's rule are intended to represent the actual fuels gaseous-fueled vehicles are likely to see in-use. Given the wide range of in-use fuel compositions, the certification fuels are broadly defined. In the case of natural gas, the certification fuel specifications include a minimum methane content of 89 percent, as well as maximum levels for the other prominent hydrocarbons found in natural gas (e.g., ethane, propane). Certification fuel under this approach reflects over 90 percent of the natural gas available in the United States. Most of the gas not meeting this criteria is gas being sold in high altitude areas, where higher levels of inert gases are added to the natural gas.

Significantly less is known about the variability of in-use LPG composition. However, the Agency believes that the composition of LPG is more consistent than that of natural gas due to common carrier pipeline and import tariff constraints. Thus, the Agency is adopting commercially available LPG as the certification fuel for LPG vehicles. As more information becomes available on LPG composition, and as experience with LPG vehicles increases, the need for a more well-defined LPG certification fuel may become apparent. Should this happen, EPA would take steps at that time to develop an appropriate LPG certification fuel specification. It should be noted that the Agency is not including any controls on in-use natural gas or LPG in today's rule, but intends to monitor in-use fuels to ensure that the certification fuels remain representative.

*D. Test Procedures*

For the most part, the current test cycles, and measurement and analytical procedures can be directly applied to gaseous-fueled vehicles. Thus, the test procedures contained in today's rule are largely the same as those which apply to other, currently regulated vehicles. The only exception of note is the procedure for measuring NMHC emissions from natural gas-fueled vehicles. The current procedure for measuring NMHC emissions was adopted in the Tier 1 rule.[9] While this procedure works fairly well for currently regulated vehicles, it is not nearly as accurate for natural gas-fueled vehicles due to their much higher levels of exhaust methane. Thus, today's rule contains some slight modifications to the NMHC test procedures adopted for the Tier 1 standards[10] to allow more accurate NMHC measurement from natural gas-fueled vehicles. These changes include accounting for the different flame ionization detector (FID) response to methane as opposed to the other hydrocarbons, as well as the use of fuel densities and H/C ratios in the calculations which are more appropriate to natural gas vehicles. The Agency views this as an interim measure and is currently working with the California Air Resources Board and the American Automobile Manufacturers Association as part of a cooperative research and development agreement to develop a more accurate procedure for the direct measurement of NMHC

*E. Fuel Economy*

Today's rule contains fuel economy test procedures and calculations for measuring the fuel economy of natural gas-fueled light-duty vehicles and light-duty trucks. The driving cycles adopted for natural gas vehicles are the same as those currently in place for gasoline-fueled vehicles. Also, the measurement and calculation procedures for natural gas vehicles rely on the same principle of carbon balance as the current gasoline procedures, but include a gasoline/natural gas equivalency factor of 100 standard cubic feet of natural gas equalling 0.823 gallons of gasoline.

These procedures and calculations will allow these vehicles to be included in a manufacturer's corporate average fuel economy (CAFE) under the Motor Vehicle Information and Cost Savings Act (MVICSA), 15 U.S.C. § 2001 *et seq.* The Alternative Motor Fuels Act of 1988,[11] provides that alternative fueled vehicles (including natural gas-fueled vehicles) may be included in a manufacturer's CAFE calculation on a favorable basis in order to encourage the manufacture of such vehicles. The AMFA provides that, for purposes of including natural gas vehicles in the CAFE calculation, fuel consumption of natural gas vehicles is only fifteen percent of equivalent gasoline fuel consumption. The AMFA also mandates the 0.823 gasoline/natural gas equivalency factor included in today's rule. Regulations governing the calculation and use of natural gas vehicle CAFE credits are contained in a separate rulemaking action.[12]

[6] 47 FR 49811, November 2, 1982; 54 FR 14426, April 11, 1989; and 56 FR 25724, June 5, 1991.

[7] Public docket A–92–14, item III–B–2.

[8] 58 FR 9468, February 19, 1993.

[9] 56 FR 25724, June 5, 1991.

[10] 56 FR 25724, June 5, 1994.

[11] Public Law 100–494, October 14, 1988.

[12] 56 FR 8856, March 1, 1991.

As will be discussed further in the Public Participation section of this rule, the Agency is not promulgating fuel economy procedures for LPG vehicles today, but will do so in a separate rulemaking action.

*F. Aftermarket Conversions*

Today's rule contains provisions for the certification of aftermarket conversions (*i.e.*, conversions which allow a vehicle or engine to operate on a fuel other than the fuel for which it was originally designed and certified). An exemption from the tampering prohibitions contained in section 203(a)(3) of the Clean Air Act can be secured through this certification process. The provisions contained in today's rule for securing such an exemption consist of three main parts: applicable standards, test procedures, and warranty/liability issues.

It has always been the Agency's policy that an aftermarket conversion not degrade the emissions performance of the original vehicle as a condition of being exempt from prosecution for tampering violations. Today's rule merely clarifies that policy by providing specific procedures by which one can certify that a conversion does meet this requirement, and thus secure an exemption from the tampering prohibition. Consistent with this policy, the emission standards which an aftermarket conversion shall meet in order to secure the tampering prohibition exemption are essentially the same standards the original vehicle was certified as meeting. In the case of conversions to natural gas, the converted vehicle would not be required to meet the THC standard, but must meet an NMHC standard which provides an equivalent amount of NMHC control as that afforded by the original THC standard. In the case of conversion to multi-fuel operation (i.e., where the vehicle has the ability to switch between two fuels, such as gasoline and natural gas, or where the vehicle operates on two fuels simultaneously, but retains the ability to operate exclusively on the original fuel), the vehicle would still be required to meet the emission standards it was originally certified to when operating on the original fuel, in addition to meeting the applicable requirements on the new fuel.

The test procedures applicable to aftermarket conversions under this program are those currently in place new vehicle certification as outlined in 40 CFR Part 86. The small volume manufacturers certification program contained in 40 CFR 86.092–14 is also available for aftermarket conversion certification provided the company or individual seeking certification meets the sales limits described in that section. These procedures utilize the same test cycles and analytical procedures that are used for new vehicle certification. In the case of aftermarket conversions a certificate of conformity must be sought for each engine family/conversion system combination and for each model year vehicle for which the system is intended.

As a condition of exemption from the tampering prohibition, conversion manufacturers and installers must accept in-use liability for warranty and recall as outlined in section 207 of the Act and its implementing regulations.[13] This is consistent with EPA's policy that aftermarket conversions not degrade the emissions performance of the original vehicle. It will also assure that the conversion will meet the applicable emission standards throughout its useful life. Since conversions generally rely, at least in part, on emission control equipment already on the original vehicle for emissions control, the useful life of a conversion will not extend beyond the useful life of the original vehicle.

*G. Fees*

Under section 217 of the Clean Air Act, EPA may establish fees to recover all reasonable costs incurred for activities associated with the Motor Vehicle and Engine Compliance Program (MVECP). The MVECP includes all compliance and enforcement activities performed by EPA which are associated with certification, fuel economy, Selective Enforcement Auditing (SEA), and in-use compliance activities. In July of 1992 EPA established these fees, to be effective with the 1993 model year.[14] These fees, as stated in the fees rule, cover all direct and indirect costs incurred by EPA for the MVECP, and automatically apply to gaseous-fueled vehicles and engines now that the MVECP applies to such vehicles and engines. Since the fees are based on the costs incurred by EPA, and since today's regulations are basically an extension of the current MVECP, the fees currently in effect for other vehicles apply to gaseous-fueled vehicles, without modification. No regulatory changes are needed and none are being made. The applicable fee must be paid, for each engine family, before the Certification Division can begin a review of the application for certification.

[13] Code of Federal Regulations, Title 40, Part 86.

[14] 57 FR 30044, July 7, 1992.

## III. Public Participation

A number of interested parties commented on EPA's November 5, 1992 NPRM. The comments include written submittals to the rulemaking docket and those presented at the December 3, 1992 public hearing, which was held in Ann Arbor, Michigan. The Agency has fully considered these comments in developing today's final rule.

This section describes the major issues of the rulemaking, as reflected in the public comments. The discussion of each issue opens with a brief description of what was proposed followed by a summary of the significant comments and EPA's analysis of the issue. The reader is referred to the Summary and Analysis of Comments document for the complete details of EPA's analysis. That document is available in the rulemaking docket. (For information on access to the docket, see the "*Addresses*" section above.)

*A. Timing of Requirements*

*Summary of the proposal:* As was stated in the NPRM, the Agency believes that the proposed standards are not technology-forcing, and that they could be met largely through currently available technology. Thus, the only leadtime requirement for meeting the proposed standards would be that of actually going through the certification process itself, including the required durability showing. The Agency, therefore, proposed that the new vehicle emission standards be effective with the 1994 model year, and that the aftermarket conversions take effect on January 1, 1994. Additionally, the Agency proposed that manufacturers have the option of complying with these standards prior to the effective date in order to participate in any applicable emissions averaging, trading and banking programs, as well as the CAFE program in the case of natural gas-fueled light-duty vehicles and light-duty trucks.

*Summary of the comments:* In general, the comments received in response to the issue of leadtime supported EPA's assessment that these standards are not technology-forcing in the sense that fundamentally new technology must be developed. However, a number of commenters raised concerns that, although the basic technology required to meet these standards has been demonstrated at low mileage, the durability of this technology in many cases remains to be proven. Additionally, one commenter pointed out that there are several mandated requirements taking effect in

the next few years for new vehicles, including Tier 1 and cold CO standards, on-board diagnostics, and revised evaporative procedures, and that mandating gaseous-fueled vehicle certification with little leadtime may seriously impair the introduction of these vehicles into the marketplace. Most commenters suggested that, given the need for technology refinement and durability work, these requirements should not take effect until the 1996 or 1997 model year. In addition, the heavy-duty engine manufacturers asserted that, under section 202(a)(3)(C) of the Clean Air Act, EPA is required to provide four years leadtime in the case of any new emission standards. In most cases commenters stated that, regardless of what effective date EPA finalizes, they support the option of being able to certify prior to the effective date.

*EPA response to comments:* The Agency agrees that, while current gaseous-fueled vehicle technology is generally capable of meeting the emission standards contained in today's rule, work remains in some cases to meet the durability requirements. While the Agency believes that some current gaseous-fueled engine technologies are capable of demonstrating the required emissions durability, it does not believe this is the case with some of the newest technologies being developed. Given that each engine family must demonstrate durability during the new vehicle certification process, the Agency believes that not providing adequate leadtime may hinder the further development of new gaseous-fueled vehicle technology in the short term, which is contrary to the stated intent of this rule. Thus, today's requirements for new vehicles and engines will take effect with the 1997 model year as requested by some commenters. Manufacturers will have the option to comply with these provisions prior to the 1997 model year if they choose.

The Agency does not believe that this amount of leadtime will be a problem from an environmental standpoint for two reasons. First, the volume of new gaseous-fueled vehicles produced prior to the 1997 model year is not expected to be that large, given the relatively young nature of the new gaseous-fueled vehicle market. Second, the Agency expects that any new vehicle or engine family which might be sold in any significant volume prior to the 1997 model year would have demonstrated adequate durability. Since there is much incentive for early compliance in the form of CAFE credits and the emissions banking and trading program, the Agency would expect the manufacturers of these vehicles to certify them in order to take advantage of these credits.

Additionally, the Agency does not believe that it is required to provide four years leadtime for new gaseous-fueled heavy-duty engine standards because these standards are being promulgated under the general authority of section 202(a)(1). However, as will be discussed in the section on CO and crankcase emissions, the Agency has elected to provide four years of leadtime in the case of crankcase emission controls. For further discussion of the four year leadtime issue please consult the summary and analysis of comments document in the docket. Finally, manufacturers have the option of complying with these requirements prior to their effective date (including certification retroactive to the beginning of the 1994 model year) and can include such certified engines in the averaging, banking and trading program.

*B. Standards for HC*

1. NMHC vs. THC Standards

*Summary of the proposal:* Since natural gas is primarily methane, natural gas-fueled vehicles (NGV) tend to have fairly high levels of methane emissions in their exhaust HC. Due to the difficulty current catalyst formulations have in oxidizing methane, it is not currently feasible for NGVs to meet the same THC standards that other vehicles meet. Thus, only NMHC standards were proposed for NGVs, with the Agency deferring any action on THC standards for NGVs until such time as the necessary methane control technology can be developed. LPG fuel, however, contains no methane, and the exhaust methane levels associated with LPG vehicles tend to be much closer to those from petroleum-fueled vehicles. Thus, all applicable THC and NMHC standards were proposed for LPG vehicles.

*Summary of the comments:* The Agency's decision to defer action on THC standards for NGVs received very broad support. Only the Manufacturers of Emission Controls Association (MECA) disagreed with this approach. MECA contended that without some form of technology-forcing THC standard for NGVs, most work on methane control technology would likely stop. MECA also pointed out that the Agency has, in the past, used technology-forcing standards as impetus for the development of new emission control technology.

Several commenters suggested that the approach of exempting NGVs from THC standards should be applied to LPG vehicles as well, citing a potential unfair advantage for NGVs if LPG vehicles were required to meet THC standards. Additionally, the LP Gas Clean Fuels Coalition stated that LPG vehicles have substantially higher levels of methane emissions than their petroleum-fueled counterparts, and thus should also be exempt from meeting the THC standards. The Coalition, however, did not submit any data in support of this claim.

*EPA response to the comments:* The Agency continues to believe that action on the THC standards for NGVs should be deferred. The Agency continues to be concerned that compliance with the THC standard currently in place for other fuels is infeasible for NGVs. While the Agency has received data suggesting that the THC standards are technically achievable for NGVs, no data has been submitted concerning the cost of refining and implementing the necessary technology on a commercial level. Cost is a component of feasibility, and without cost information the Agency cannot conclude that compliance with the THC standards is feasible. Moreover, technical issues remain to be resolved. The data suggesting that THC standards are technically achievable was limited to vehicles operating at a stoichiometric fuel/air ratio, and operation under other conditions (*i.e.*, lean burn) remains an issue. Additionally, the durability of methane-specific catalysts remains an unknown.

Also, for the reasons explained in the proposal, EPA does not believe it can establish a technology-forcing standard. EPA continues to believe that the amount of lead-time required for adequate technology development still cannot be readily determined, because the durability of a methane catalyst formulation has not been established. EPA does not agree that the absence of a technology-forcing standard would bring work on methane control technology to a stop. The engine manufacturing industry has indicated that its research will continue based on the belief that THC standards will be imposed in the future. Also, as noted in the proposal, EPA believes that strong growth in the NGV market in the near-term is important to provide resources for technology development. Of course, EPA will continue to monitor work on methane catalyst development. If information becomes available establishing the technology's feasibility (including cost information), EPA will consider adopting THC standards for NGVs. Also, if future events further demonstrate the need for a technology-forcing standard, EPA will further consider this option as well.

As was stated in the NPRM, the Agency believes it most appropriate to, wherever possible, apply the same standards to alternative-fueled vehicles that apply to their petroleum-fueled counterparts. In the case of NGVs there are circumstances, as discussed above, which justify deviating from this basic philosophy. However, the Agency has seen no emissions data which would suggest that a similar set of circumstances exists for LPG vehicles. Thus, LPG vehicles will be required to meet the same THC standards as currently apply to other vehicles.

2. Heavy-Duty NMHC Standards

*Summary of the proposal:* In setting NMHC standards for natural gas-fueled heavy-duty engines (HDE), the Agency intends to establish standards which would provide the same level of NMHC control as the THC standards in effect for petroleum diesel and gasoline HDEs. In the absence of speciated exhaust HC data on HDEs (i.e., data on the level of the individual HC components in the exhaust), EPA applied the results of an analysis done on light-duty vehicles and light-duty trucks to arrive at NMHC standards which were 82.5 percent of the level of the corresponding THC standards. The resultant standards were very close to those adopted by the California Air Resources Board (CARB), and in the NPRM the Agency requested comment on whether it should adopt CARB's standards instead.

*Summary of the comments:* Every commenter who expressed an opinion on this issue urged EPA to adopt the CARB standards in order that the California and federal standards be harmonized.

*EPA response to the comments:* The Agency believes that the differences between its proposed NMHC standards and CARB's are so small as not to be an air quality issue. Further, EPA has learned since the NPRM that the CARB standards were based on speciated data from HDEs. Thus, as EPA believes that the speciated data provides a sounder basis than EPA's, the Agency is adopting CARB's NMHC standards for HDEs.

3. Evaporative Emission Standards

*Summary of the proposal:* In the NPRM it was noted that, due to the sealed nature of gaseous-fueled vehicle fuel systems, their "evaporative" emissions (i.e., emissions of unburned fuel from the fuel storage system) are expected to be near-zero. Nonetheless, the Agency proposed evaporative emission controls for gaseous- fueled vehicles in order to assure that the fuel systems are not leaking. EPA proposed that the evaporative provisions for gasoline and methanol-fueled vehicles, which were in the process of being revised at the time of the proposal for this rule, be applicable to gaseous-fueled vehicles as well, with modifications to the test procedures as necessary to accommodate gaseous fuels. The Agency also proposed that certification testing waivers be available for evaporative testing in order to reduce the testing burden as much as possible, given the likelihood of near-zero emissions.

*Summary of the comments:* Although one commenter supported the proposed evaporative requirements for gaseous-fueled vehicles, citing potential fuel leaks from the vehicle refueling receptacle, most of the comments received expressed opposition. In general, most commenters said that, for safety reasons, as well as to simply prevent the complete escape of fuel from the vehicle for economic reasons, the fuel systems must be sealed. Since sealed systems are a practical requirement of gaseous-fueled vehicles, they argued, there is no need for EPA to regulate evaporative emissions. As a result, any certification testing required would be unnecessary. Some commenters felt that if EPA were to require some form of evaporative emissions showing that it should be in the form of an engineering evaluation of the system, or simply a one hour diurnal test.

*EPA response to comments:* The Agency agrees with the general comment that there are practical considerations other than emissions concerns which force the use of sealed fuel systems on gaseous-fueled vehicles. As a result, EPA would expect their evaporative emissions to be near-zero. However, the Agency believes that it is prudent to have some kind of evaporative emission standard which can be enforced, in order to assure that fuel system leaks do not become a problem. Thus, the same new evaporative provisions applicable to other vehicles beginning with the 1996 model year will also be applied to gaseous-fueled vehicles at that time, recognizing that compliance with these standards is optional prior to the 1997 model year. The Agency does recognize, however, that it is likely that, by virtue of their design, gaseous-fueled vehicles will emit well below the applicable standards. Therefore, certification testing waivers will be available for all gaseous-fueled vehicle evaporative provisions if the manufacturer can show that, by virtue of the vehicle's design, it will always meet the applicable standards.

*C. Refueling Emission Standards*

1. Natural Gas

*Summary of the proposal:* In the NPRM the Agency proposed that, in the case of natural gas refueling facilities, no refueling hoses which need to be vented down prior to disconnect shall be vented to the atmosphere. Rather, as is the case with many current natural gas refueling facilities, EPA expects that such vent-down gases should be routed back to the compressor inlet rather than being vented to the atmosphere. The timing of this requirement was not explicit in the NPRM preamble. However, the regulatory text stated that the provisions would take effect with the 1994 model year.

*Summary of the comments:* In general, the comments received in response to the issue of natural gas refueling hose venting opposed, to some degree, the proposed prohibition on venting emissions. Some commenters suggested that this requirement is not needed at all given the extremely small contribution to total methane emissions that vent-down gases represent. Several commenters pointed out that the upcoming ANSI/AGA NGV1 standard would address EPA's concerns about refueling emissions from natural gas refueling stations. One commenter pointed out that this proposed requirement could be interpreted as a zero-emission standard and questioned the feasibility of such an approach. Some commenters suggested that more leadtime was needed than was proposed. Several commenters pointed out that the cost of controlling these emissions varied quite a bit depending on the inlet pressure of the compressor. In cases where the natural gas supply line is at fairly low pressure (*i.e.*, 15 psi or less) the gas could be routed directly into the compressor inlet at low cost. However, in cases where the gas supply pressure is higher, additional compression equipment would be needed to compress the vent-down gas in order to route it back into the compressor, raising costs substantially. Also, the cost of such controls would be much higher for existing installations than for new stations because existing stations would likely require excavation for the return line plumbing. Finally, some commenters stated that EPA should not control natural gas refueling emissions since they are primarily methane, and the Agency only proposed NMHC standards for tailpipe emissions.

*EPA response to comments:* In the NPRM the Agency mentioned that the natural gas industry was moving toward the establishment of standard refueling equipment specifications. That effort.

known as the ANSI/AGA NGV1 standard, was recently adopted by the American National Standards Institute (ANSI) as the standard for natural gas vehicle fueling connection devices. While in its various draft forms, this standard contained a provision limiting the amount of natural gas that can be vented due to nozzle disconnect. This provision was based on the proposed onboard refueling vapor recovery (ORVR) standard for gasoline-fueled vehicles of 0.05 grams per gallon of dispensed gasoline.[15] As indicated in the draft ANSI standard contained in the public docket for this rule, the venting provision was deleted from the final ANSI standard since, at the time of final balloting on the standard, the ORVR rule had not yet been promulgated. The ORVR final rule was recently promulgated and included a gasoline-fueled vehicle refueling emission standard of 0.20 grams per gallon of dispensed gasoline.[16]

The Agency agrees that a zero-emission standard for natural gas vehicles is not reasonable and believes that, in its draft form, the NGV1 standard addressed EPA's concerns with natural gas vehicle refueling emissions. Thus, the Agency is using the methodology in draft NGV1 standard to apply the 0.20 gram per gallon refueling standard to natural gas vehicles. Using this approach, natural gas refueling stations will be allowed to vent no more than 1.2 grams of natural gas due to nozzle disconnect. This standard is based on the ORVR standard of 0.20 grams per gallon of fuel dispensed and a nominal fuel tank capacity of six gallons gasoline equivalent natural gas, as was assumed in the draft NGV1 standard. For a more complete discussion of how this standard was derived please consult the summary and analysis of comments document for this rule. This requirement will take effect January 1, 1998 for high volume stations, with a two year extension until January 1, 2000 for small volume stations (those which dispense less than the energy equivalent of 10,000 gallons of gasoline per month based on the AMFA fuel equivalency factor).

In addition to the requirements for natural gas refueling stations, EPA is also requiring in today's rule natural gas-fueled light-duty vehicles and light-duty trucks be equipped with refueling receptacles which comply with the recently adopted ANSI/AGA NGV1 standard. This requirement will be implemented consistent with the timing of the ORVR provisions for other vehicles (three year phase-in beginning with the 1998 model year for light-duty vehicles and the 2001 model year for light-duty trucks). The Agency expects, however, that all new natural gas-fueled vehicles will have ANSI/AGA NGV1 nozzles long before this due to the desire for standardized refueling coupling geometry within the industry.

EPA does not believe that the cost of the refueling station controls is prohibitive and believes that today's requirement is both feasible and reasonable. Consistent with this view, most new stations being installed would meet this requirement. The Agency agrees that in certain cases, such as those where additional compression equipment is needed, the cost of retrofitting may not be reasonable. Thus, for in-use refueling stations which must be retrofitted to meet this requirement, the Agency will waive the requirement in situations where the station operator can demonstrate, to the satisfaction of the Administrator, that compliance with this provision would require the use of additional compression equipment, or other similar costs. The impact of such waivers should be minimal given the small number of stations currently operating, and the small percentage of those stations which would not currently meet these requirements.

As was discussed earlier, the lack of exhaust THC standards in today's rule is a function of cost and legal constraints, and the Agency believes that control of methane is appropriate where it is feasible and economically reasonable. Thus, EPA does not believe that the desire to control refueling emissions from natural gas vehicles is inconsistent with the adoption of exhaust NMHC standards.

2. LPG Vehicle/Pump Interface

*Summary of the proposal:* Since LPG is transferred in a sealed system there is little concern about refueling emissions at the vehicle/pump interface during the actual fuel transfer. Of concern to the Agency, however, are emissions released when the nozzle is disconnected from the vehicle. At this point any fuel which is trapped in the dead space between the nozzle and the vehicle receptacle is released. In the NPRM the Agency proposed that refueling equipment be designed so as to prevent this escape of fuel, such as through the use of low-loss, no-bleed couplings, although no specific numerical standards were included. As with the natural gas provisions in the NPRM, the timing of this requirement was not explicit in the NPRM preamble. However, the regulatory text stated that the provisions would take effect with the 1994 model year.

*Summary of the comments:* The Agency received few comments on this particular aspect of the proposed refueling provisions. The comments that addressed this issue tended to agree with the need for control. However, the comments otherwise differed. One commenter suggested that any hardware requirement be performance-based, rather than prescriptive, so as to be consistent with EPA's previous consideration of refueling controls for gasoline vehicles. Also, the lack of a numerical standard was interpreted as being a zero-emission standard, which one commenter suggested is infeasible. Another commenter stated that just requiring new refueling nozzles at all current LPG fueling facilities would cost about $30 million, but provided no supporting documentation for that claim.

*EPA response to comments:* The Agency believes that it is appropriate to minimize the amount of LPG fuel which is vented from the dead space between the refueling nozzle check valve and the vehicle refueling receptacle check valve but also agrees that a zero-emission standard is unreasonable. Both the nozzle and the vehicle receptacle geometries play an integral role in the size of this dead space. Thus, any performance specification for vehicle/pump interface refueling emissions would have to address the nozzle and receptacle as a single system. In the case of LPG, there is not a standardized geometry for refueling nozzles, at least in terms of the parameters which would affect this dead space. Thus, it is difficult for the Agency to define a performance specification such as that which has been considered for gasoline vehicles based upon an industry standard nozzle geometry. The Agency is aware that the LPG industry is developing nozzles which dramatically reduce the dead space, especially when used in conjunction with low-bleed inserts in the vehicle receptacle.

For the reasons just mentioned EPA is finalizing a two-fold approach to refueling emissions for LPG vehicles. First, today's rule includes a requirement that LPG refueling nozzles have no more than 2.0 $cm^3$ dead space, as measured from the face of the nozzle which seals against the vehicle receptacle "O" ring. Second, a refueling standard and SHED-based test consistent with the recently promulgated ORVR requirement is being adopted for LPG-fueled light duty vehicles and light-duty trucks. The vehicle standard, adjusted for the difference in energy density between

[15] 52 FR 31162, August 19, 1987.
[16] 59 FR 16262, April 6, 1994.

gasoline and LPG, is 0.15 grams per dispensed gallon of fuel. This approach will ensure that the LPG vehicles will have refueling emissions similar to those of other vehicles meeting the ORVR standards. A certification testing waiver will be available for all classes of LPG vehicles to which this standard applies if the manufacturer can demonstrate, through the use of development or other data, that the vehicle will meet the standard. For a complete discussion of how the 2.0 $cm^3$ standard for LPG vehicle refueling nozzles was derived please consult the summary and analysis of comments document for this rule.

This standard for LPG vehicles will apply to the same classes and model years as the ORVR rule (i.e., three year phase-in beginning with the 1998 model year for light-duty vehicles and the 2001 model year for light-duty trucks). The requirement for the refueling nozzles will take effect January 1, 1998 for high volume stations, with a two year extension until January 1, 2000 for small volume stations (those which dispense less than the energy equivalent of 10,000 gallons of gasoline per month). The Agency believes that this amount of leadtime for refueling stations will allow for the replacement or retrofit of LPG nozzles during the normal course of replacement or repair of in-use nozzles due to wear.

3. LPG Tank Venting

*Summary of the proposal:* Fuel tanks for LPG vehicles currently have a device known as a fixed liquid level valve, or outage valve, at the proper fill level. This is a small orifice which can be opened during refueling in order to indicate that, upon the release of liquid from the valve, the tank is filled and refueling should stop. Although LPG tanks are now constructed with built-in automatic shutoff devices to prevent overfilling, they still have outage valves on them. The Agency proposed a prohibition on all non-safety-related valves on gaseous-fueled vehicles in order to prevent the emissions of LPG from outage valves during refueling.

*Summary of the comments:* The Agency received a variety of comments expressing concern about the proposal to eliminate outage valves from LPG vehicles. First, several commenters pointed out that outage valves are required under the National Fire Protection Association standard 58 (NFPA 58), and that the NFPA code has been adopted by many state and local fire marshals as the applicable fire code. Second, some commenters stated that the regulatory language as proposed precluded the use of all types of valves on gaseous-fueled vehicles, including such things as manual fuel shutoff valves. Third, some comments were received expressing concern that this requirement would preclude the use of liquefied natural gas (LNG) altogether due to the need to occasionally vent excess pressure from LNG fuel tanks to prevent overpressurization. Finally, one commenter expressed concern about the application of this requirement to LPG vehicles already in service and the possibility of having to retrofit those vehicles.

*EPA response to comments:* The Agency understands the apparent conflict between its proposal and the requirements of NFPA 58. EPA believes that with the newer requirement in NFPA 58 for automatic shutoff (overfill prevention) mechanisms, the requirement for outage valves on vehicle fuel tanks is obsolete, and should be removed from NFPA 58. Due to this conflict, however, the Agency has chosen not to finalize its proposed requirements prohibiting outage valves, but is working with the industry and NFPA to have this requirement deleted from NFPA. While the Agency believes it has the authority to preempt NFPA 58 as adopted by fire marshals through the adoption of the proposed requirement to eliminate outage valves, it prefers to work with the industry to remove that requirement from NFPA 58 before superseding state and local law through EPA regulation. Given that the proposed language prohibiting non-safety-related valves is not being finalized, the other concerns expressed in the comments are alleviated.

While the Agency is not finalizing the proposed requirements concerning outage valves, they remain a concern as a source of emissions. This is especially true for LPG vehicles which are intended to be certified as ILEVs. Thus, for any LPG vehicle, the above-mentioned refueling test procedure will be performed with the outage valve opened, unless the manufacturer can demonstrate, to the satisfaction of the Administrator, that the outage valve or any other such gauges or valves would not be opened during refueling in-use due to inaccessibility or other design features that would prevent or make it very unlikely that they could be opened.

*D. Standards for CO and Crankcase Emissions*

1. Idle CO

*Summary of the proposal:* Until the methanol emission standards were promulgated in 1989, idle CO standards were only applied to Otto-cycle engines. EPA reasoned that diesel vehicles always operate at such lean fuel/air ratios that their idle CO emissions would always be well below the standards. The methanol rule applied idle CO standards to all methanol-fueled vehicles because the Agency was aware of diesel methanol vehicles which were throttled at idle. This same reasoning was applied to gaseous-fueled vehicles, and EPA proposed that idle CO standards apply to all gaseous-fueled vehicles, not just Otto-cycle vehicles.

*Summary of the comments:* The few comments EPA received on this issue were in opposition to idle CO standards for engines which operate at lean fuel/air ratios. The commenters stated that lean burn engines emit very low CO levels, and that there is no need to regulate and test for emissions which are inherently low.

*EPA response to the comments:* The Agency recognizes that lean burn engines do traditionally have much lower CO emissions than vehicles operating at stoichiometric fuel/air ratios. However, EPA believes that not enough data yet exists on diesel gaseous-fueled vehicles to justify their exemption from the idle CO standards. The Agency is especially concerned about those diesel designs which employ throttling at idle. It is likely that these vehicles will have no problem meeting the idle CO standards by virtue of their design and that, this being the case, the only burden this standard presents is that of the actual certification testing and reporting. Thus, certification testing waivers for diesel gaseous-fueled vehicle idle CO standards will be available to manufacturers that can demonstrate through emissions test data or other engineering data that a vehicle will, by virtue of its design, always emit at levels well below that of the applicable idle CO standard.

2. Crankcase Emissions

*Summary of the proposal:* Currently, all vehicles and engines, with the exception of non-naturally aspirated petroleum heavy-duty diesel engines (HDDE), are prohibited from discharging crankcase emissions into the atmosphere. The current prohibition is not applicable to non-naturally aspirated petroleum HDDEs due to concerns that the routing of oil mist-laden crankcase gases through turbochargers and other air handling equipment may foul this equipment. With the issuance of the methanol vehicle emission standards in 1989 this prohibition was applied to all methanol HDDEs whether they were naturally aspirated or not. The reasoning was that methanol engine crankcase gases were

expected to be cleaner than petroleum diesel engine crankcase gases, and closer to gasoline engine crankcase emissions which are been routinely routed through turbochargers. Given that gaseous-fueled vehicles are also expected to have cleaner crankcase emissions than petroleum diesels, this prohibition on crankcase emissions was proposed to be applicable to all gaseous-fueled vehicles and engines as well, with no exemption for non-naturally aspirated, gaseous-fueled HDDEs.

*Summary of the comments:* In general, the comments received in this area were in opposition to crankcase controls for gaseous-fueled vehicles and engines. Some commenters suggested that crankcase controls only be applied to naturally-aspirated gaseous-fueled engines, as is currently the case with petroleum HDDEs. Others stated that, due to their inherently low emissions, gaseous-fueled vehicles and engines should be exempt from all crankcase emission provisions. One commenter expressed concern about crankcase gases possibly fouling turbochargers, and then went on to say that gaseous-fueled vehicle crankcase emissions will be inherently clean and thus do not need to be regulated.

*EPA response to comments:* In the absence of compelling data showing that gaseous-fueled vehicle crankcase emissions are cleaner than those of their petroleum-fueled counterparts, the Agency believes it is prudent to extend the coverage of the current prohibition on crankcase emissions to include gaseous-fueled HDDEs. Additionally, EPA believes that, since the crankcase prohibition for methanol-fueled HDDEs is not limited to naturally-aspirated engines, as well as the fact that crankcase emissions are routinely routed through gasoline engine turbochargers, there is no reason to exempt non-naturally aspirated gaseous-fueled vehicles and engines from the crankcase emissions prohibition. As was noted in the leadtime discussion, the Agency expects that current technology gaseous-fueled engines will be able to meet these standards, and therefore the minimum amount of leadtime to allow for certification has been given. However, since turbocharged gaseous-fueled HDDEs are generally derived from turbocharged petroleum HDDEs they do not tend to have crankcase emission controls. The Agency believes that, while the four year leadtime requirement in section 203(a)(3)(C) of the Act is not legally binding in the case of gaseous-fueled heavy-duty engines, in circumstances where the manufacturers must make changes to engine designs similar to those made to comply with changes in gasoline or petroleum diesel requirements, section 203(a)(3)(C) may constitute a proper default period. In order to allow for the early introduction of gaseous-fueled HDDEs, the Agency is providing four years leadtime for crankcase controls on turbocharged gaseous-fueled HDDEs in the absence of factors indicating that another period is more appropriate. Thus, this provision will take effect for the 1998 model year. It should be noted that the four years of leadtime only applies to turbocharged gaseous-fueled HDDEs, and that the crankcase emission provisions for all other classes of gaseous-fueled vehicles will take effect with the 1997 model year mandatory certification, as well as for vehicles and engines certified optionally prior to the 1997 model year.

*E. On-Board Diagnostics*

*Summary of the proposal:* EPA did not specifically address in the November 5, 1992 proposal the applicability of on-board diagnostics (OBD) requirements to gaseous-fueled vehicles. This is because the OBD regulations were not promulgated until after the gaseous-fueled vehicle standards were proposed.[17] However, EPA proposed that emission standards for gaseous-fueled vehicles generally be equivalent to those for other vehicles. Implicit in that proposal is that gaseous-fueled vehicles would be required to meet the same OBD requirements as other vehicles (OBD II or Federal OBD, as applicable by model year).

*Summary of the comments:* The Agency received several comments concerning OBD. These comments fell into two general areas. First, several commenters requested that the Agency clarify the applicability of OBD requirements to gaseous-fueled vehicles. Second, comments were received stating that additional leadtime should be allowed for natural gas-fueled vehicles to comply with OBD. The OBD provisions as promulgated require OBD systems to monitor for conditions which would result in certain increases in THC emissions. The argument for additional leadtime centered around the fact that natural gas vehicles will only be subject to NMHC standards while all other vehicles are subject to THC standards. During the course of the OBD rulemaking comments were received suggesting that natural gas systems only be required to measure NMHC emission effects. Commenters argued that the technology likely to be used to monitor for increases in THC could not be readily adapted to monitor for increases in NMHC. The Agency received a comment suggesting that a delay until 1998 would allow sufficient leadtime to develop the technology needed for natural gas-fueled vehicles to meet the OBD requirements.

*EPA response to comments:* The OBD requirements contained in the February 19, 1993 rule were established pursuant to section 202(m) of the Clean Air Act. That subsection provides, in pertinent part:

> (1) [T]he Administrator shall promulgate regulations under subsection (a) requiring manufacturers to install on all new light duty vehicles and light duty trucks diagnostic systems capable of—
>
> (A) accurately identifying * * * emission-related systems deterioration or malfunction * * * which could cause or result in failure of the vehicles to comply with emission standards established under this section.

By its terms, the OBD provision applies only to vehicles for which emission standards have been established under section 202. The regulations promulgated on February 19, 1993 simply add a new requirement that all new light-duty vehicles and light-duty trucks be equipped with an emission control diagnostic system capable of identifying emissions-related deterioration and malfunction as detailed in the regulations.[18] Therefore, this provision would seem to apply automatically to gaseous-fueled vehicles as soon as mandatory emissions standards are established for those vehicles.

EPA agrees that leadtime until the 1998 model year is necessary for full implementation of the Federal OBD requirements for natural gas-fueled vehicles. Therefore, under today's regulations, implementation of Federal OBD systems will not be required for certification prior to model year 1998. This is the case for both for voluntary certification prior to model year 1997, and for mandatory certification in model year 1997. However, consistent with the approach taken in the OBD rule for vehicles granted a waiver from Federal OBD requirements on feasibility grounds, natural gas-fueled vehicles certified in the 1997 model year or optionally prior to the 1997 model year will be required to comply with OBD I provisions.

EPA believes that allowing leadtime for natural gas-fueled vehicles until the 1998 model year is legally consistent with sections 202(m) and 202(a). To be sure, section 202(m)(2) specifically provides that the required OBD regulations shall take effect in model year 1994, subject to the Administrator's authority to waiver application of the

[17] 58 FR 9468, February 19, 1993.

[18] 58 FR at 9485; 40 CFR 86.094-17.

regulations for model years 1994 and/or 1995 for any vehicle for which the Administrator determines the regulations would be infeasible in those model years. But EPA believes that Congress intended this effective date provision to apply only to vehicles for which standards existed at the time of the enactment of the Clean Air Act Amendments of 1990. EPA does not believe that Congress intended this provision to require OBD to be implemented immediately upon promulgation of any emission standards under section 202(a)(1) for new kinds of alternative-fueled vehicles at any point after 1995. EPA cannot adopt new emission standards for natural gas-fueled vehicles that would trigger a mandatory OBD requirement that is not feasible. It is also unreasonable to believe Congress intended that EPA refrain from establishing mandatory emission standards for natural gas-fueled vehicles simply because an infeasible OBD requirement would automatically apply once such standards are established. The Agency's efforts to ensure that natural gas fueled vehicles' emissions are no greater than their petroleum-fueled counterparts should not be frustrated by a concern that compliance with an OBD requirement requires more leadtime than compliance with the emission standards themselves.

Rather, EPA believes that the OBD requirements under section 202(m)(1), to be promulgated under section 202(a), incorporate the general leadtime provision in section 202(a)(2). Section 202(a)(2) specifically states that "[a]ny regulation prescribed under paragraph (1) of this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." EPA believes that this leadtime provision applies to all aspects of new standards established with respect to previously unregulated alternative-fueled vehicles. EPA agrees with commenters that leadtime until model year 1998 is necessary for implementation of Federal OBD systems for natural gas-fueled vehicles. Therefore, Federal OBD requirements will not apply for certification of such vehicles until model year 1998; compliance with OBD I provisions is required for any natural gas-fueled vehicles certified prior to the 1998 model year, as discussed above.

EPA also recognizes that the current OBD regulations apply to vehicles subject to a THC standard. As long as only a NMHC standard applies to natural gas-fueled vehicles, these regulations should arguably be amended to monitor deterioration and malfunction regarding NMHC emissions performance. EPA anticipates commencing a rulemaking to make these changes to the OBD regulations as applicable to natural gas-fueled vehicles in the near future in time for the changes to apply in the 1998 model year. This issue does not effect the feasibility of compliance with OBD I requirements.

As was noted above, the Agency did not formally propose any specific requirements concerning the applicability of OBD requirements to gaseous-fueled vehicles. However, the Agency believes that this issue was fairly raised and sufficiently considered prior to the promulgation of this final rule since EPA's initial proposal intended to extend all applicable emission standards to gaseous-fueled vehicles, and the Agency received several comments on OBD in response to that proposal. For more discussion of this issue please consult the summary and analysis document.

*F. HC Measurement*

*Summary of the proposal:* The current method for measuring exhaust NMHC, which was adopted for the Tier 1 tailpipe standards, involves measuring THC and methane, and subtracting methane from THC to obtain NMHC. For NGVs the exhaust HC is primarily methane, whereas for other vehicles the exhaust methane tends to be a much lower percentage of THC. As a result, the current procedure is much less accurate for NGVs than for other vehicles, and the need for a better measurement technique is obvious. The NPRM discussed several potential options for improved, direct NMHC measurement. However, none of these techniques was developed sufficiently enough to warrant proposal. Thus, the Agency proposed, as an interim procedure, some slight modifications to the current procedure to improve its accuracy for NGVs. Additionally, EPA proposed that if a better technique had not been developed within the first two years of these standards' applicability then full gas chromatograph (GC) analysis would be required. This was intended to provide the industry with incentive to develop a better alternative since the inaccuracies of the current procedure clearly preclude it from being a long term solution.

*Summary of the comments:* EPA received little comment on this aspect of the proposal. A few commenters voiced support for the interim procedure, while some expressed concern over how resource-intensive full GC analysis would be for routine certification work.

EPA response to comments: The Agency agrees with the commenters that the modifications to the current procedure constitute the best interim option, and this is the technique that is contained in today's rule. Additionally, EPA has entered into a Cooperative Research and Development Agreement (CRADA) with the California Air Resources Board and the American Automobile Manufacturers Association to address a variety of test procedures needs which have arisen out of the Clean Air Act Amendments. One of the projects the CRADA is addressing is that of an accurate technique for the direct measurement of NMHC. The Agency believes that since it is participating in the development process through the CRADA a technology-forcing approach is not necessary at this time. Thus, rather than finalize a requirement for full GC analysis, the best approach would be to continue to work through the CRADA to develop an NMHC technique which can be adopted as the certification procedure upon its completion. However, if an appropriate technique is not developed through the CRADA, EPA will consider a more accurate procedure such as the GC for the required procedure.

*G. Fuel Composition*

*Summary of the proposal:* It is the Agency's belief that certification test fuels should resemble the fuels that a vehicle is likely to encounter in-use. Given the wide range of natural gas compositions currently available throughout the United States, the Agency proposed very broad specifications for natural gas certification fuel. These specifications included a range for methane content of 74 to 98.5 percent, as well as broad ranges for several other parameters. In the case of LPG fuel, much less information is available about composition variability nationally. Thus, commercially available LPG was proposed as the certification fuel, with no specific ranges set on any parameters other than that the primary constituent be propane. The NPRM contained no provisions for the regulation of in-use composition of either fuel.

*Summary of the comments:* Although the Agency received some comments in support of its proposed certification fuel specifications, in general commenters believed that the proposed specifications were much too broad. In terms of natural gas specifications, the comments in favor of tighter specifications fell into two general

categories. First, several commenters stated that they agreed with EPA's general approach of a broadly defined specification in order that certification fuel be representative of in-use fuel. These commenters, however, felt that the proposed fuel specification was much too broad and encompassed fuels which could not be considered representative of most natural gas. Other commenters felt that, in order to be able to meaningfully compare results from different tests, a very narrowly defined test fuel specification is needed. Most of these commenters recommended that EPA adopt the California Air Resources Board (CARB) certification fuel (90% methane, ± 1%, among other requirements) as the federal certification fuel. Some of the commenters who recommended a narrower range of specifications suggested that EPA adopt a range of specifications which would allow the use of CARB certification fuel (e.g., 89% methane, minimum, etc.).

The Agency received little comment on the proposed LPG certification fuel specifications. A few commenters suggested that EPA adopt the CARB LPG certification fuel specifications (93.5% propane, ±1%, etc.) as the federal certification fuel. Some commenters agreed with the proposal, stating that it allowed for the use of butane mixtures in LPG vehicles.

In addition to comments about certification fuel specifications, several comments were received requesting that the Agency adopt in-use fuel specifications. These comments generally came from engine and vehicle manufacturers. These commenters explained that in order to get maximum emission benefits from gaseous-fueled vehicles it is important to minimize in-use fuel composition variability. In addition, heavy-duty diesel engine manufacturers stated that, unlike stoichiometric engines utilizing oxygen sensor feedback control systems, lean-burn diesel engines have no way of accounting for fuel composition variability, and thus may encounter operational difficulties on some fuels.

*EPA response to comments:* The Agency both understands and sees the merits in the arguments for tighter certification fuel specifications. However, as was previously stated, EPA also believes it is important that certification fuel be representative of in-use fuel. Thus, in developing today's final rule the Agency has attempted to find a middle ground between these seemingly conflicting needs. In the case of natural gas certification fuel, the Agency is adopting the approach suggested by some commenters that the specification remain somewhat broad, but allow for the use of CARB certification fuel. This specification includes a minimum methane content of 89 percent, among other parameters. For the complete certification fuel specifications please see the regulatory text of today's rule. These specifications were chosen both because they encompass over 90 percent of natural gas sold in the country and because there was some general support for them in the comments as a good compromise between EPA's proposed specifications and CARB certification fuel.

Almost all of the gas not covered by this specification (i.e., gas with a methane content below 89 percent) is sold in high altitude areas where the gas tends to contain higher levels of inert gases than that sold at low altitudes. The Agency believes that excluding high altitude gas from the specifications should not present a problem for vehicles which are certified using the 89 percent minimum methane certification fuel but are operated at high altitudes because, in general, vehicles which will be certified under the provisions of today's rule are expected to utilize electronic feedback control systems for proper management of the fuel/air ratio. The Agency believes that these systems will be able to account for any differences in fuel composition between high altitude natural gas and natural gas in the rest of the country.

It should be noted that, while the natural gas certification fuel specifications contained in today's rule are much broader than CARB's, CARB certification fuel does fall within the federal specifications, and thus could be used for certification testing. For a further discussion of this issue please consult the summary and analysis of comments document available in the public docket.

The Agency would like to take a similar approach for LPG certification fuel as it took for natural gas certification fuel. However, there is little information available about in-use LPG composition upon which such a fuel specification could be based. Thus, EPA believes it prudent to adopt commercial LPG as the certification fuel at this time. Should adequate information on in-use LPG composition become available at some point in the future, EPA may elect to define a certification fuel specification for LPG at that time.

Today's rule contains no controls on in-use fuel composition for either natural gas or LPG. EPA does not believe that the need for such in-use controls has been adequately demonstrated. Further, the cost-effectiveness of such controls is not likely to justify such action. The Agency is concerned, however, about the possibility of in-use fuel composition changes over time, and urges the natural gas and LPG industries to take steps to minimize such variations. Should the in-use compositions of these fuels change in such a way as to adversely impact the emissions performance of gaseous-fueled vehicles the Agency would likely take steps to address the issue at that time, either through corresponding changes in certification fuel specifications, or possibly through in-use fuel composition specifications.

*H. Fuel Economy*

*Summary of the proposal:* The NPRM included test procedures and calculations for determining the fuel economy of natural gas-fueled light-duty vehicles and light-duty trucks for purposes of allowing them to be included in a manufacturer's CAFE calculation. The proposed procedures for determining the fuel economy of natural gas vehicles (NGV) utilize the same principles as those used in the procedures currently in place for gasoline vehicles. Availability of CAFE credits for NGVs was mandated in the Alternative Motor Fuels Act (AMFA) of 1988 (Public Law 100–494, October 14, 1988), to be effective with the 1993 model year. No CAFE provisions regarding LPG vehicles were proposed.

*Summary of the comments:* In general, the comments regarding the CAFE provisions for NGVs were very supportive. Some commenters urged EPA to quickly finalize this rule in order to assure that CAFE credits will be available for 1993 model year NGVs. The lack of fuel economy provisions for LPG vehicles, however, was perceived by many as an unfair disadvantage for LPG vehicles. Additionally, many commenters pointed out that the National Energy Policy Act of 1992 mandated the availability of CAFE credits for LPG vehicles, and urged EPA to finalize fuel economy test procedures and calculations for LPG vehicles.

*EPA response to comments:* The Agency did not propose fuel economy measurement procedures for LPG vehicles because prior to the National Energy Policy Act of 1992 the determination of whether LPG vehicles should be included in the CAFE program was required to be made by the Secretary of Transportation under the Energy Policy and Conservation Act (U.S.C. 2001(5)). At the time EPA issued the NPRM for today's action the Secretary of Transportation had not made a determination to include LPG vehicles in the CAFE program. The Energy Policy Act allowing LPG vehicles to participate in the CAFE

program was signed into law just as EPA issued its proposal. Thus, no fuel economy provisions were proposed for LPG vehicles. There are two reasons why EPA is not adopting fuel economy provisions for LPG vehicles in this rule. First, before EPA can adopt fuel economy test procedures and calculations for LPG vehicles, the U.S. Department of Transportation (DOT) is required by the Energy Policy Act to determine a fuel equivalency factor equating gasoline and LPG so that fuel economy can be calculated on a gasoline gallon- equivalent basis. This fuel equivalency factor has not yet been set by DOT. Second, the Agency believes that the required new fuel economy measurement provisions for LPG vehicles must be subject to public notice and comment. Thus, the Agency will work with DOT to develop the fuel equivalency factor, and, upon determination of that factor, will propose LPG fuel economy provisions in a separate Agency rulemaking action.

*I. Aftermarket Conversions*

1. Applicability

*Summary of the proposal:* It is the Agency's policy that, based on the tampering provisions of section 203(a)(3) of the Act, aftermarket conversions should not degrade the emissions performance of the vehicle being converted, and that following a conversion a vehicle should still meet the emission standards it was originally certified as meeting on any fuels it is capable of using. Under this policy any conversion which degrades the emissions performance of the vehicle is considered tampering. In order to clarify how compliance with this policy can be demonstrated, the Agency proposed that converters can certify as new vehicle manufacturers using the current new vehicle certification procedures applicable to small volume manufacturers. The Agency requested comment on whether the volume limit of 10,000 units that currently defines a small volume manufacturer should apply to conversions as well, or whether, as proposed, the small volume procedures should apply to all converters, regardless of the conversion sales volume of the company seeking the certification. These certification requirements were proposed to apply to all aftermarket conversions performed or sold after December 31, 1993, regardless of the class or model year of the vehicle being converted. In the proposal the Agency stated its belief that this rule would not require any leadtime for technology development and that the only leadtime required would be for the actual certification process.

*Summary of the comments:* In general, the comments received on the aftermarket conversion provisions were very supportive, with several commenters expressing the need for such requirements, and none completely opposed. One commenter suggested that these requirements should only apply to conversions in areas which are not in attainment with national ambient air quality standards. Comments were received both in favor of and opposed to applying the 10,000 limit to the use of the small volume procedures for conversions. Other comments received indicated that there was some confusion as to the applicability of the proposed requirements to conversions done before 1994, as well as to conversions of pre-1994 model year vehicles performed after December 31, 1993.

*EPA response to comments:* As was stated in the description of today's rule, an aftermarket conversion company can choose to comply with these provisions to obtain an exemption from the tampering prohibition. Only conversions which are intended to generate some form of credit, such as clean-fueled fleet vehicle purchase credits, will be required to comply with these provisions. Converters which choose not to obtain an exemption from the tampering prohibition under this procedure will be handled under the current tampering policy. Given that this is an optional certification procedure for conversions the issues of leadtime and mandatory start date are less relevant.

The Agency agrees with the comment that the production volume limits that currently define a small volume manufacturer also apply to converters seeking to certify as manufacturers under today's program. The Agency expects that the demand for aftermarket conversions will grow dramatically over the next few years in response to a variety of state and federal programs. It seems reasonable to require the larger conversion companies to undergo full new vehicle certification if they choose to get an exemption from the tampering prohibition by certifying as a manufacturer. Thus, the volume limits that currently apply to manufacturers seeking to certify under the small volume manufacturers provisions will also apply to converters seeking to certify as manufacturers. The Agency recognizes that, while the current small volume manufacturers limit applies to sales for a particular model year, conversions are routinely performed on older vehicles, and a conversion company may offer conversion systems for vehicles from several different model years at any given time. Thus, the 10,000 sales volume limit for certifying under the small volume manufacturers procedures will apply to calendar year sales for the purposes of aftermarket conversions. For a further discussion of how this volume limit will be applied see the summary and analysis of comments document.

2. Test Procedures

*Summary of the proposal:* In the NPRM the Agency proposed using the same test procedures for conversions that are used for new vehicle and engine certification. This approach was proposed because the Agency believes that this is the only way of truly measuring the emissions performance of a conversion relative to the emission standards applicable to the original vehicle or engine.

*Summary of the comments:* Most of the comments received on the issue of test procedures for aftermarket conversions concerned the differences between EPA's proposed procedures and those adopted by CARB. In general, where there are differences between CARB's procedures and those proposed by EPA the commenters requested that the Agency adopt the CARB procedures instead of what it proposed. In the case of procedures for converted light-duty vehicles and light-duty trucks EPA's proposed test procedures are essentially the same as CARB's. Thus, there is no issue in the case of light-duty vehicle and light-duty truck certification procedures for aftermarket conversions.

EPA's proposed procedures for conversions of vehicles whose engines were originally certified on an engine dynamometer (i.e., most heavy-duty engines) are quite different than CARB's. As was previously mentioned, the Agency proposed that conversions in this category be certified using the test procedure used to certify the original engine. That procedure is the engine dynamometer-based heavy-duty transient test. CARB's procedures use the chassis dynamometer-based urban dynamometer driving cycle for conversions of vehicles 14,000 pounds and under gross vehicle weight (GVW). For conversions of vehicles greater than 14,000 pounds GVW, CARB's procedures allow for either steady-state chassis dynamometer testing or an engine dynamometer test approved by the CARB Executive Officer. Most of the comments received on this issue requested that, in order to reduce compliance costs, EPA adopt the CARB test procedures for aftermarket conversions. One commenter also

suggested that it is unfair to require conversions for heavy-duty engines to be certified using the heavy-duty transient test because there are few available testing facilities at which one could get the required testing done.

*EPA response to comments:* The Agency continues to believe that the most appropriate way to determine whether an aftermarket conversion meets the emission standards that the original vehicle or engine was certified to is to use the same test procedures that were used in certifying the original vehicle or engine. As the comments suggest, this is only an issue for the conversions intended for vehicles originally certified using the engine dynamometer procedures. While the Agency understands the concerns voiced by the commenters, it does not believe that there is an adequate alternative to using the original test procedures when attempting to demonstrate compliance with the original standards. In the case of the CARB procedures, CARB uses an approach whereby compliance is determined by comparing post-conversion emissions performance with pre-conversion performance, and allowing for some increase in emissions to account for test to test variability. Given this approach, it is not nearly as important for CARB to use the same test procedures that were used to certify the original vehicle because the standards being certified to are not those the vehicle was originally certified as meeting. However, by taking this approach it is possible that an aftermarket conversion which exceeds the original configuration's emissions standards could be certified, which is in conflict with the anti-tampering provisions of the Act.

In the case of vehicles over 14,000 pounds GVW, CARB allows the use of eight mode steady-state testing, using the same pre-conversion, post-conversion comparison as for vehicles under 14,000 pounds GVW. Again, the Agency believes that it is possible with this approach to certify an aftermarket conversion which exceeds the original configuration's emissions standards. Also, the Agency does not believe that steady-state testing is appropriate under any circumstances. It is well-understood that emission control systems can be designed for low emissions when tested using steady-state test procedures, but provide little emissions control under real-world, transient conditions.[19] It is for this reason that EPA adopted the heavy-duty transient test cycle in place of the thirteen mode steady state test for all heavy-duty engine certification, effective in the mid-1980s. Thus, EPA does not believe that it would be appropriate to adopt the CARB test procedures for these vehicles. It should be noted that CARB does allow for alternative test cycles for vehicles over 14,000 pounds GVW, subject to advance approval from the Executive Officer. It is the Agency's belief that, given the transient test is the test cycle which these vehicles would have originally been certified on, it is likely that CARB would approve its use for conversion certification, thus eliminating the need for two separate certification procedures for vehicles over 14,000 pounds GVW.

3. On-Board Diagnostics

*Summary of the proposal:* The Agency recently adopted requirements, effective for the 1994 model year and thereafter, which require on-board diagnostics (OBD) systems on new light-duty vehicles and light-duty trucks.[20] The purpose of the OBD system is, in part, to monitor the performance of a vehicle's emission control systems and signal to the vehicle operator if a system is malfunctioning. The Agency did not propose any specific requirements regarding how aftermarket conversions would interact with new vehicle OBD systems, but required that converted vehicles remain in compliance with all applicable Clean Air Act Title II emission requirements.

*Summary of the comments:* The Agency only received a few comments on the issue of aftermarket conversions and OBD. These comments tended not to be specific, but rather asked the Agency to clarify what the requirements were for an aftermarket conversion on an OBD-equipped vehicle. A few commenters suggested that EPA require new vehicle manufacturers to provide some means of shutting off the OBD system during alternative fuel operation in order to prevent the system from storing faulty trouble codes.

*EPA response to comments:* As explained in the preamble to the proposed rule, EPA believes that a tampering exemption should be conditioned upon certification demonstrating that the converted vehicle has the ability to comply with the applicable emission standards and will have demonstrated adequate durability. As was mentioned above, shortly after publication of the proposal for this rule, the Agency adopted requirements, effective for the 1994 model year, which require OBD systems on new light-duty vehicles and light-duty trucks.

While the aftermarket conversions proposal did not explicitly make clear that compliance with the OBD requirements (as well as certain other title II requirements) must be demonstrated to obtain a certification, the Agency believes this is implicit in the discussion of the justification for the exemption. The Agency explained in the proposal that "Congress intended to prohibit tampering that would result in emission noncompliance," and that "[t]he language of the tampering provisions emphasizes the compliance of the vehicle with the title II regulations."

EPA's justification for the exemption for conversions from tampering restrictions was based on the incongruity of prohibiting conversions that result in a vehicle meeting emission standards applicable to vehicles of the fuel type to which the vehicles have been converted. The OBD requirements, even if not "emissions standards" in the traditional sense, clearly have an underlying emissions control purpose. And the tampering prohibitions of section 203(a)(3) of the Act explicitly apply to the disabling of any device "installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title. . ." Disabling an OBD system is clearly prohibited as tampering. It is therefore not at all clear that EPA would have authority to provide an exemption from the tampering prohibition for a conversion that do not meet the same OBD requirements as the vehicle would have had to meet had it been originally manufactured to operate on fuel type to which it has been converted.

The logic of the Agency's tampering exemption for aftermarket conversions thus indicates that the Agency intended that the exemption be conditioned on compliance with all title II requirements applicable to the converted vehicle when operating on either fuel. Certainly, even if the proposal did not specifically make clear that it intended to require compliance with OBD as a condition for a tampering exemption, that requirement is a logical outgrowth of the discussion in the proposal. The comments of interested parties reflect a recognition of EPA's authority to require compliance with OBD as a condition of the tampering exemption. These comments demonstrate the adequacy of notice.[21]

4. Liability

*Summary of the proposal:* In the NPRM the Agency proposed that, in

[19] 45 FR 4136, January 21, 1980.

[20] 58 FR 9468, February 19, 1993.

[21] *See Shell Oil Co.* v. *EPA*, 950 F.2nd 741, (Dec. 6, 1991).

order to be exempt from the Clean Air Act's tampering prohibition, the manufacturers and installers of aftermarket conversions must accept in-use liability for warranty and recall as outlined in section 207 of the Act and its implementing regulations.[22] Additionally, EPA proposed that the vehicle's original manufacturer remain liable for the in-use performance of any systems which retain their original purpose following conversion, except in cases where the failure of such a system is determined to be caused by the conversion. The Agency proposed that the useful life of a conversion be the same as that of the vehicle being converted, and requested comment on whether the useful life of the conversion should be measured from the time of the conversion or from the time of the original vehicle's manufacture.

*Summary of the comments:* The Agency received a variety of comments on the proposed liability scheme. In general, commenters agreed on the need for in-use liability for warranty and recall, but differed on where or with whom this liability should be placed. Some commenters suggested that the primary liability should be with the conversion system manufacturer, and that the installer should only be held liable for the proper installation of the conversion system. Other commenters agreed with EPA's proposed liability suggesting both that this approach would protect the conversion consumer in the event that one party went out of business, and that it would allow manufacturers and installers to negotiate risk of failure between them. Comments received on the issue of liability of the vehicle's original manufacturer for the proper functioning of original equipment also supported both sides of the issue, with some commenters suggesting that the original manufacturer's liability should end at the time of conversion and others supporting the Agency's proposed approach. Finally, all comments received on the issue of when the useful life begins were in favor of reducing the useful life requirement of the conversion by the amount of the original vehicle's useful life which had already passed at the time of conversion. These commenters suggested that, because aftermarket conversions generally depend on the original vehicle equipment to some extent for emissions performance, it would not be appropriate to require the conversion to continue meeting applicable emission standards after the original equipment had exceeded its useful life.

*EPA response to the comments:* The Agency believes that by holding the entity which certifies the conversion system liable for the in-use performance of the converted vehicle it has the greatest chance of assuring quality conversions which will meet applicable emission standards throughout their useful lives. If poor installation were a defense to liability, then certifiers would have no interest in insuring their installers are competent. Such an approach does not rely on who manufactures or installs the system, but on who certifies the system as meeting applicable standards. At the time of vehicle conversion the system certifier assumes liability for the converted vehicle's in-use emissions performance. The certifier may elect to have outside agents conduct installations. However, the certifier will be solely responsible for the converted vehicle's in-use emission performance. For this reason the Agency recommends that those certifiers electing to have outside agents conduct installations work to assure quality system installation.

EPA believes that it is appropriate to hold the original vehicle manufacturer liable for the performance of any parts or systems which retain their original function following conversion. If the failure of such a part or system could be traced to the conversion then the liability would lie with the conversion certifier. A good indication of where the liability lies in such situations would be whether the failure of a part or system is also occurring in non-converted configurations of the same vehicle.

The Agency agrees with the comments that it is not appropriate to extend the useful life of a conversion past that of the original vehicle, given that conversions generally rely on many original vehicle components for proper operation. Thus, the applicable useful life of any conversion will be reduced by the amount of mileage on the vehicle at the time of conversion (*i.e.*, the useful life of a conversion will end at the same point that the useful life of the original vehicle ends).

## IV. Environmental Effects

The general goal of today's emission standards is to provide a level playing field for gaseous-fueled vehicles relative to other currently regulated vehicles, and to remove a potential barrier to their commercial production. Thus, this rule is not intended to generate significant emission reductions beyond those achieved by vehicles operating on other fuel types. As such, the Agency has not attempted to accurately quantify the environmental effects of today's rule. However, there are likely to be some beneficial differences between the emissions from gaseous-fueled vehicles and conventional vehicles, including possible benefits in the areas of NMHC, CO and air toxics, as well as benefits associated with improved aftermarket conversions. For a complete discussion of these potential benefits please consult the discussion of environmental effects contained in the NPRM.[23]

## V. Economic Impacts

The Agency expects the emission standards contained in this rule to be attainable using emission control technology which is similar to that used on current vehicles. Indeed, this has been the case thus far with the vehicles which have shown the ability to comply with the standards. Thus, EPA expects that the cost of emission controls for natural gas- and liquefied petroleum gas-fueled vehicles will be similar to that for current vehicles. There are two instances, however, where compliance with the standards may be less costly for gaseous-fueled vehicles than for current vehicles: evaporative emissions, and exhaust aftertreatment for gaseous-fueled heavy-duty diesel engines. For a complete discussion of these potential benefits please consult the discussion of economic impacts contained in the NPRM.[24]

It is not expected that these regulations will have a significant impact on the cost of aftermarket conversions of conventional-fueled vehicles to operate on gaseous fuels. The chief area of change in response to these regulations will be in the area of durability improvements. This may involve some increase in cost, but overall the impacts should be small.

Since the purpose of today's standards is to remove the regulatory uncertainty associated with gaseous-fueled vehicles and to place them on an equal footing with other vehicles, and not necessarily to achieve emission reductions, the Agency does not believe it is appropriate to perform a cost-effectiveness analysis for these standards. Although the Agency does expect some emission reductions to result from these standards, that is not the purpose of these regulations. Thus, the benefits cannot be readily quantified in terms of pollutant inventory reductions, nor is it appropriate to do this. For these reasons no cost effectiveness analysis was performed.

## VI. Statutory Authority

Authority for the actions in this rule is granted to EPA by sections 202, 203

[22] 40 CFR Part 85.

[23] 57 FR 52912, November 5, 1992.

[24] 57 FR 52912, November 5, 1992.

and 301(a) of the Clean Air Act (42 U.S.C. 7521 and 7601(a)).

### VII. Executive Order 12866

Under Executive Order 12866,[25] the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

### VIII. Reporting and Recordkeeping Requirements

The information collection requirements contained in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Public recordkeeping burden is estimated to average 115 hours per response. It is not anticipated that the revisions being promulgated today will have any impact on the recordkeeping burden. These requirements are not effective until OMB approves them and a technical amendment to that effect is published in the **Federal Register**.

Send comments regarding the burden estimate, including suggestions for reducing this burden to Chief, Information Policy Branch, EPA, 401 M St., SW. (2136), 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."

[25] 58 FR 51735, October 4, 1993.

### IX. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine whether a regulation will have a significant adverse impact on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. The new vehicle standards will affect only manufacturers of motor vehicles and motor vehicle engines, a group which does not contain a substantial number of small entities. The aftermarket conversion portions of today's regulations will not significantly impact the small businesses in the aftermarket conversion industry because the provisions are voluntary, and the cost of voluntary compliance with these requirements will be small when spread over the projected volumes of conversions expected to be sold in the near future.

### X. Judicial Review

Under section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by September 21, 1994. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

### List of Subjects

*40 CFR Part 80*

Environmental protection, Administrative practice and procedures, Air pollution control, Motor vehicle pollution.

*40 CFR Part 85*

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

*40 CFR Part 86*

Administrative practice and procedures, Air pollution control, Incorporation by reference, Motor vehicles, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

*40 CFR Part 88*

Administrative practice and procedures, Air pollution control, Motor vehicle pollution, Reporting and recordkeeping requirements.

*40 CFR Part 600*

Administrative practice and procedures, Fuel economy, Incorporation by reference, Motor vehicles, Reporting and recordkeeping requirements.

Dated: May 27, 1994.

**Carol M. Browner,**

*Administrator.*

For the reasons set forth in the preamble, parts 80, 85, 86, 88 and 600 of chapter I of title 40 of the *Code of Federal Regulations* are amended, as set forth below:

## PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

**Authority:** Secs. 144, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.2 of subpart A is amended by revising paragraphs (j) and (o), and adding new paragraphs (oo), (tt) and (uu), to read as follows:

**§ 80.2 Definitions.**

* * * * *

(j) *Retail outlet* means any establishment at which gasoline, diesel fuel, methanol, natural gas or liquefied petroleum gas is sold or offered for sale for use in motor vehicles.

* * * * *

(o) *Wholesale purchaser-consumer* means any organization that is an ultimate consumer of gasoline, diesel fuel, methanol, natural gas or liquefied petroleum gas and which purchases or obtains gasoline, diesel fuel, natural gas or liquefied petroleum gas from a supplier for use in motor vehicles and, in the case of gasoline, diesel fuel, methanol or liquefied petroleum gas, receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that organization.

* * * * *

(oo) *Liquefied petroleum gas* means a liquid hydrocarbon fuel that is stored under pressure and is composed primarily of species that are gases at atmospheric conditions (temperature = 25°C and pressure = 1 atm), excluding natural gas.

* * * * *

(tt) *Natural gas* means a fuel whose primary constituent is methane.

(uu) *Methanol* means any fuel sold for use in motor vehicles and commonly

known or commercially sold as methanol or MXX, where XX is the percent methanol ($CH_3OH$) by volume.

3. Section 80.22 of subpart B is amended by revising the title to read as follows:

**§ 80.22 Controls applicable to gasoline and methanol retailers and wholesale purchaser consumers.**

* * * * *

4. A new § 80.32 is added to subpart B, to read as follows:

**§ 80.32 Controls applicable to liquefied petroleum gas retailers and wholesale purchaser-consumers.**

After January 1, 1998 every retailer and wholesale purchaser- consumer handling over 13,660 gallons of liquefied petroleum gas per month shall equip each pump from which liquefied petroleum gas is introduced into motor vehicles with a nozzle that has no greater than 2.0 $cm^3$ dead space from which liquefied petroleum gas will be released upon nozzle disconnect from the vehicle, as measured from the nozzle face which seals against the vehicle receptacle "O" ring, and as determined by calculation of the geometric shape of the nozzle. After January 1, 2000 this requirement applies to every liquefied petroleum gas retailer and wholesale purchaser- consumer. Any dispensing pump shown to be dedicated to heavy-duty vehicles is exempt from this requirement.

5. A new § 80.33 is added to Subpart B, to read as follows:

**§ 80.33 Controls applicable to natural gas retailers and wholesale purchaser-consumers.**

(a) After January 1, 1998 every retailer and wholesale purchaser-consumer handling over 1,215,000 standard cubic feet of natural gas per month shall equip each pump from which natural gas is introduced into natural gas motor vehicles with a nozzle and hose configuration which vents no more than 1.2 grams of natural gas to the atmosphere per refueling of a vehicle complying with § 86.098–8(d)(1)(iv) of this chapter, as determined by calculation of the geometric shape of the nozzle and hose. After January 1, 2000 this requirement applies to every natural gas retailer and wholesale purchaser-consumer. Any dispensing pump shown to be dedicated to heavy-duty vehicles is exempt from this requirement.

(b) The provisions of paragraph (a) of this section can be waived for refueling stations which were in operation on or before January 1, 1998 provided the station operator can demonstrate, to the satisfaction of the Administrator, that compliance with paragraph (a) of this section would require additional compression equipment or other modifications with costs similar to or greater than the cost of additional compression equipment.

## PART 85—[AMENDED]

6. The authority citation for part 85 continues to read as follows:

**Authority:** 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7543, 7547, and 7601(a), unless otherwise noted.

7. A new subpart F is added to part 85 to read as follows:

**Subpart F—Exemption of Aftermarket Conversions From Tampering Prohibition**

Sec.

85.501 General applicability.
85.502 Definitions.
85.503 Conditions of exemption.
85.504 Applicable standards.
85.505 Labeling.

## Subpart F—Exemption of Aftermarket Conversions From Tampering Prohibition

**§ 85.501 General applicability.**

Sections 85.501 through 85.505 are applicable to aftermarket conversion systems for which an enforcement exemption is sought from the tampering prohibitions contained in section 203 of the Act.

**§ 85.502 Definitions.**

(a) *The Act* means the Clean Air Act as amended (42 U.S.C. 7501 *et seq.*).

(b) *Administrator* means the Administrator of the Environmental Protection Agency or his or her authorized representative.

(c) *Aftermarket conversion system* means any combination of hardware, including but not limited to fuel storage and fuel metering hardware, which is installed on a light-duty vehicle, light-duty truck, heavy-duty vehicle, or heavy-duty engine with the effect of allowing the vehicle or engine to operate on a fuel other than the fuel which the vehicle or engine was originally certified to use. Components which do not affect the emissions performance of the converted vehicle or engine, as determined by the Administrator, are not included for the purposes of this subpart.

(d) *Aftermarket conversion installer* means any company or individual which installs an aftermarket conversion system on a light-duty vehicle, light-duty truck, heavy-duty vehicle, or heavy-duty engine with the effect of allowing the vehicle or engine to operate on a fuel other than the fuel which the vehicle or engine was originally certified to use.

(e) *Aftermarket conversion certifier* means any company or individual which assembles the various aftermarket conversion hardware components into a particular combination or configuration and certifies that combination or configuration according to the provisions of this subpart.

(f) *Model Year* means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided,* That if the manufacturer has no annual production period, the term *model year* shall mean the calendar year.

**§ 85.503 Conditions of exemption.**

(a) As a condition of receiving an enforcement exemption from the tampering prohibitions contained in section 203 of the Act, an aftermarket conversion certifier must certify the aftermarket conversion system, using the applicable procedures in part 86 of this chapter, and meeting the applicable standards and requirements in §§ 85.504 and 85.505, and accept liability for in-use performance of the aftermarket conversion system as outlined in this part.

(b) As a condition of receiving an enforcement exemption from the tampering prohibitions contained in section 203 of the Act, an aftermarket conversion installer must:

(1) Install a conversion which has been certified as a new vehicle or engine, using the applicable procedures in part 86 of this chapter, and meeting the applicable standards and requirements in §§ 85.504 and 85.505; and

(2) Accept liability for in-use performance of the aftermarket conversion system as outlined in this part.

**§ 85.504 Applicable standards.**

(a) The emission standards applicable to conversions of 1993 and later model year vehicles and engines are:

(1) All of the requirements that would apply if the conversion were being certified as if it were a new vehicle or engine.

(2) If a vehicle or engine to be converted was originally certified to a $NO_X$ or particulate family emission limit other than the applicable new vehicle $NO_X$ or particulate standard, the family emission limit is the applicable standard.

(b) The emission standards applicable to conversions of 1992 and earlier model year vehicles and engines are:

(1) *Exhaust hydrocarbons (as applicable by fuel type).* The Tier 0 hydrocarbon standards, as applicable by

vehicle class, contained in §§ 86.094–8 and 86.094–9 of this chapter, and the hydrocarbon standards, as applicable by engine class, contained in §§ 86.094–10 and 86.094–11 of this chapter;

(2) *CO, $NO_x$ and particulate.* The applicable CO, $NO_x$ and particulate standards or $NO_x$ and particulate family emission limits the vehicle or engine was originally certified as meeting;

(3) *Evaporative hydrocarbons.* Any evaporative requirements applicable to the original vehicle or engine will remain applicable to the conversion if the converted vehicle or engine retains the ability to operate on the fuel which it was designed and certified to use.

**§ 85.505 Labeling.**

(a) The aftermarket conversion certifier shall provide with each aftermarket conversion system a supplemental emission control information label, which shall be affixed by the aftermarket conversion installer in a permanent manner to each converted vehicle, in a location adjacent to the original emission control information label required in § 86.092–35 of this chapter. If the supplemental label cannot be placed adjacent to the original label, it shall be placed in a location where it will be seen by a person viewing the original label.

(b) The supplemental label shall be affixed in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from the vehicle.

(c) The supplemental label shall clearly state that the vehicle has been equipped with an aftermarket conversion system designed to allow it to operate on a fuel other than the fuel it was originally manufactured to operate on, and shall identify the fuel(s) which the vehicle is designed to use.

(d) The supplemental label shall show the vehicle model year; the aftermarket conversion certifier's name, address and telephone number; the installer's name, address, and telephone number; the date on which the aftermarket conversion system was installed; the mileage of the vehicle at the time of the conversion; and shall state that the converted vehicle complies with federal emission requirements.

(e) The supplemental label shall list any original parts that were removed during installation of the aftermarket conversion system, as well as any changes in tune-up specifications required for the aftermarket conversion system.

## PART 86—[AMENDED]

8. The authority citation for Part 86 continues to read as follows:

**Authority:** Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217 and 301(a) of the Clean Air Act as amended; 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552 and 7601(a)).

9. Section 86.1 is amended by revising the table in paragraph (b)(1) and adding a new paragraph (b)(3), to read as follows:

**§ 86.1 Reference materials.**

* * * * *

(b) * * *

(1) * * *

| Document number and name | 40 CFR part 86 reference |
|---|---|
| ASTM E29–67 (Reapproved 1980), Standard Recommended Practice for Indicating Which Places of Figures Are To Be Considered Significant in Specified Limiting Values. | 86.094–26; 86.094–28; 86.1105–87 |
| ASTM E29–90, Standard Practice for Using Significant Digits in Test Data To Determine Conformance with Specifications. | 86.609–84; 86.609–96; 86.1009–84; 86.1009–96; 86.1442 |
| ASTM D2163–91, Standard Test Method for Analysis of Liquefied Petroleum (LP) Gases and Propane Concentrates by Gas Chromatography. | 86.113–91; 86.113–94; 86.1213–94; 86.1313–90 |
| ASTM D1945–91, Standard Test Method for Analysis of Natural Gas By Gas Chromatography. | 86.113–91; 86.113–94; 86.513–90; 86.1213–94; 86.1313–90 |

* * * * *

(3) *ANSI material.* The following table sets forth material from the American National Standards Institute that has been incorporated by reference. The first column lists the number and name of the material. The second column lists the section(s) of this part, other than § 86.1, in which the matter is referenced. The second column is presented for information only and may not be all inclusive. Copies of these materials may be obtained from the American National Standards Institute, 11 West 42nd Street, 13th Floor, New York, NY 10036.

| Document number and name | 40 CFR part 86 reference |
|---|---|
| ANSI/AGA NGV1–1994, Standard for Compressed Natural Gas Vehicle (NGV) Fueling Connection Devices. | 86.001–9; 86.004–9; 86.098–8; 86.099–8; 86.099–9 |

10. The title of subpart A of part 86 is revised to read as follows:

**Subpart A—General Provisions for Emission Regulations for 1977 and later Model Year New Light-Duty Vehicles, Light-Duty Trucks and Heavy-Duty Engines, and for 1985 and Later Model Year New Gasoline Fueled, Natural Gas-Fueled, Liquefied Petroleum Gas-Fueled and Methanol-Fueled Heavy-Duty Vehicles**

11. Section 86.001–9 of subpart A is amended by adding new paragraphs (d)(1)(iii) and (d)(1)(iv), to read as follows:

**§ 86.001–9 Emission standards for 2001 and later model year light-duty trucks.**

* * * * *

(d) * * *

(1) * * *

(iii) *Hydrocarbons (for liquefied petroleum gas-fueled vehicles).* 0.15 gram per gallon (0.04 gram per liter) of fuel dispensed.

(iv) *Refueling receptacle (for natural gas-fueled vehicles).* Refueling receptacles on natural gas-fueled vehicles shall comply with the receptacle provisions of the ANSI/AGA NGV1–1994 standard (as incorporated by reference in § 86.1).

* * * * *

12. Section 86.001–28 of subpart A is amended by adding a new paragraph (h) to read as follows:

**§ 86.001–28 Compliance with emission standards.**

* * * * *

(h) *Fixed liquid level gauge waiver.* Liquefied petroleum gas-fueled vehicles which contain fixed liquid level gauges or other gauges or valves which can be opened to release fuel or fuel vapor during refueling, and which are being tested for refueling emissions, are not required to be tested with such gauges or valves open, as outlined in § 86.157–98(d)(2), provided the manufacturer can demonstrate, to the satisfaction of the Administrator, that such gauges or valves would not be opened during refueling in-use due to inaccessibility or other design features that would prevent or make it very unlikely that such gauges or valves could be opened.

13. Section 86.004–9 of subpart A is amended by adding new paragraphs

(d)(1)(iii) and (d)(1)(iv), to read as follows:

**§ 86.004–9 Emission standards for 2004 and later model year light-duty trucks.**

* * * * *

(d) * * *

(1) * * *

(iii) *Hydrocarbons (for liquefied petroleum gas-fueled vehicles).* 0.15 gram per gallon (0.04 gram per liter) of fuel dispensed.

(iv) *Refueling receptacle (for natural gas-fueled vehicles).* Refueling receptacles on natural gas-fueled vehicles shall comply with the receptacle provisions of the ANSI/AGA NGV1–1994 standard (as incorporated by reference in § 86.1).

* * * * *

14a. Section 86.004–28 of subpart A is amended by adding a new paragraph (h) to read as follows:

**§ 86.004–28 Compliance with emission standards.**

* * * * *

(h) *Fixed liquid level gauge waiver.* Liquefied petroleum gas-fueled vehicles which contain fixed liquid level gauges or other gauges or valves which can be opened to release fuel or fuel vapor during refueling, and which are being tested for refueling emissions, are not required to be tested with such gauges or valves open, as outlined in § 86.157–98(d)(2), provided the manufacturer can demonstrate, to the satisfaction of the Administrator, that such gauges or valves would not be opened during refueling in-use due to inaccessibility or other design features that would prevent or make it very unlikely that such gauges or valves could be opened.

14b. Section 86.084–4 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

**§ 86.084–4 Section numbering; construction.**

* * * * *

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

* * * * *

15. Section 86.091–10 of subpart A is amended by revising paragraphs (a)(1) introductory text, (a)(1)(i) introductory text, (a)(1)(i)(B)(*2*), (a)(1)(ii) introductory text, (a)(1)(ii)(B)(*2*) and (a)(3), and by adding paragraphs (a)(1)(i)(C)(*3*), (a)(1)(ii)(C)(*3*), (a)(1)(v), and (a)(1)(vi), to read as follows:

**§ 86.091–10 Emission standards for 1991 and later model year Otto-cycle heavy-duty engines and vehicles.**

(a)(1) Exhaust emissions from new 1991 and later model year Otto-cycle heavy-duty engines shall not exceed (compliance with these standards is optional through the 1996 model year natural gas- and liquefied petroleum gas-fueled heavy-duty engines):

(i) For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas, and intended for use in all vehicles except as provided in paragraph (a)(3) of this paragraph.

* * * * *

(B) * * *

(*2*) *For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas and utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) * * *

(*3*) A manufacturer may elect to include any or all of its liquefied petroleum gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_X$ averaging, trading, or banking programs for heavy-duty engines, within the restrictions described in § 86.091–15. If the manufacturer elects to include engine families in any of these programs, the $NO_X$ FELs may not exceed 6.0 grams per brake horsepower-hour (2.2 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

(ii) For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas, and intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs.

* * * * *

(B) * * *

(*2*) *For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas and utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) * * *

(*3*) A manufacturer may elect to include any or all of its liquefied petroleum gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_X$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.091–15. If the manufacturer elects to include engine families in any of these programs, the $NO_X$ FELs may not exceed 6.0 grams per brake horsepower-hour (2.2 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

* * * * *

(v) For natural gas-fueled Otto-cycle heavy-duty engines intended for use in all vehicles except as provided in paragraph (a)(3) of this section.

(A) *Nonmethane hydrocarbons.* 0.9 gram per brake horsepower-hour (0.33 gram per megajoule), as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 14.4 grams per brake horsepower-hour (5.36 grams per megajoule), as measured under transient operating conditions.

(*2*) *For natural gas-fueled Otto-cycle heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust flow at curb idle.

(C) *Oxides of nitrogen.* (*1*) 5.0 grams per brake horsepower-hour (1.9 grams per megajoule), as measured under transient operating conditions.

(*2*) A manufacturer may elect to include any or all of its natural gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_X$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.091–15. If the manufacturer elects to include engine families in any of these programs, the $NO_X$ FELs may not exceed 6.0 grams per brake horsepower-hour (2.2 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

(vi) For natural gas-fueled Otto-cycle engines intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs.

(A) *Nonmethane hydrocarbons.* 1.7 grams per brake horsepower-hour (0.63 gram per megajoule), as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 37.1 grams per brake horsepower-hour (13.8 grams per megajoule), as measured under transient operating conditions.

(*2*) *For natural gas-fueled Otto-cycle heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) *Oxides of nitrogen.* (*1*) 5.0 grams per brake horsepower-hour (1.9 grams per megajoule), as measured under transient operating conditions.

(*2*) A manufacturer may elect to include any or all of its natural gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_X$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.091–15. If the manufacturer elects to include engine families in any of these programs, the $NO_X$ FELs may not exceed 6.0 grams per brake horsepower-hour (2.2 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

* * * * *

(3)(i) A manufacturer may certify one or more Otto-cycle heavy-duty engine configurations intended for use in all vehicles to the emission standards set forth in paragraphs (a)(1)(ii), (a)(1)(iv) or (a)(1)(vi) of this section: *Provided*, that the total model year sales of such configuration(s), segregated by fuel type, being certified to the emission standards in paragraph (a)(1)(ii) of this section represent no more than five percent of total model year sales of each fuel type Otto-cycle heavy-duty engine intended for use in vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds by the manufacturer

(ii) The configurations certified to the emission standards of paragraphs (a)(1)(ii), (iv) and (vi) of this section under the provisions of paragraph (a)(3)(i) of this section shall still be required to meet the evaporative emission standards set forth in paragraphs (b)(1)(i), (b)(2)(i) and (b)(3)(i) of this section.

* * * * *

16. Section 86.091–28 of subpart A is amended by revising paragraphs (a)(4)(i) introductory text, (a)(4)(i)(C), (a)(4)(ii)(B), (a)(7)(i), (b)(4)(ii), (b)(4)(iii), (b)(6)(i), (c)(4)(ii), (c)(4)(iii)(A)(*1*), (c)(4)(iii)(A)(*2*), (c)(4)(iii)(B)(*1*), (c)(4)(iii)(B)(*2*) and (d)(1) to read as follows:

**§ 86.091–28 Compliance with emission standards.**

(a) * * *

(4) * * *

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established, as required for compliance with applicable emission standards for exhaust HC, exhaust OMHCE, exhaust NMHC, exhaust CO, exhaust $NO_X$ and exhaust particulate for each engine-system combination. A separate evaporative emission deterioration factor, as required for compliance with applicable emission standards, shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

* * * * *

(C)(*1*) An evaporative emissions deterioration factor shall be determined from the testing conducted as described in § 86.090–21(b)(4)(i), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor = Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

(*2*) The factor in paragraph (a)(4)(i)(C)(*1*) of this section shall be established to a minimum of two places to the right of the decimal.

(ii) * * *

(B) The official evaporative emission test results for each evaporative emission-data vehicle at the selected test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, that if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

* * * * *

(7) * * *

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor as necessary to establish compliance with applicable emission standards shall be established for exhaust HC, exhaust OMHCE, exhaust NMHC, exhaust CO and exhaust $NO_X$ for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (a)(4) of this section.

* * * * *

(b) * * *

(4) * * *

(ii) Separate exhaust emission deterioration factors, determined from tests of vehicles, engines, subsystems or components conducted by the manufacturer, shall be supplied for each engine-system combination. Separate factors shall be established as required for compliance with applicable emission standards for transient HC, OMHCE, NMHC, CO, and $NO_X$, idle CO and exhaust particulate.

(iii) For transient HC, OMHCE, NMHC and CO, and $NO_X$, idle CO and/or exhaust particulate as appropriate, the official exhaust emission results for each emission-data vehicle at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

* * * * *

(6) * * *

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust OMHCE or exhaust NMHC as appropriate, and exhaust CO and exhaust $NO_X$ for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (b)(6) of this section.

* * * * *

(c) * * *

(4) * * *

(ii) Separate exhaust emission deterioration factors, determined from tests of engines, subsystems or components conducted by the manufacturer, shall be supplied for each engine-system combination. For Otto-cycle engines, separate factors shall be established for transient HC, OMHCE or NMHC as appropriate, CO and $NO_X$, and idle CO, for those engines utilizing aftertreatment technology (e.g., catalytic converters). For diesel engines, separate factors shall be established for transient HC, OMHCE or NMHC as appropriate, CO, $NO_X$ and exhaust particulate. For diesel smoke testing, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and peak opacity (designated as "C").

(iii)(A) * * *

(*1*) *Otto-cycle heavy-duty engines not utilizing aftertreatment technology (e.g., catalytic converters).* For transient HC, OMHCE or NMHC as appropriate, CO and $NO_X$, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) *Otto-cycle heavy-duty engines utilizing aftertreatment technology (e.g., catalytic converters).* For transient HC, OMHCE or NMHC as appropriate, CO and $NO_X$, and for idle CO, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) * * *

(*1*) *Diesel heavy-duty engines not utilizing aftertreatment technology (e.g., particulate traps).* For transient HC, OMHCE or NMHC as appropriate, CO $NO_X$ and exhaust particulate, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor

supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(2) *Diesel heavy-duty engines utilizing aftertreatment technology (e.g., particulate traps).* For transient HC, OMHCE or NMHC as appropriate, CO, $NO_X$ and exhaust particulate, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

* * * * *

(d)(1) Paragraph (d) of this section applies to heavy-duty vehicles required to comply with evaporative emission standards.

* * * * *

17. Section 86.092–1 of subpart A is amended by revising paragraph (a) to read as follows:

**§ 86.092–1 General applicability.**

(a) The provisions of this subpart apply to 1992 and later model year new Otto-cycle and diesel light-duty vehicles, 1992 and later model year new Otto-cycle and diesel light-duty trucks, and 1992 and later model year new Otto-cycle and diesel heavy-duty engines. The provisions of this subpart are optional for vehicles fueled with either natural gas or liquefied petroleum gas for the 1994 through 1996 model years. The provisions of this subpart also apply to aftermarket conversions of all model year Otto-cycle and diesel light-duty vehicles, Otto-cycle and diesel light-duty trucks, and Otto-cycle and diesel heavy-duty engines certified under the provisions of 40 CFR Part 85, Subpart F.

* * * * *

18. Section 86.094–2 of subpart A is amended by revising the introductory paragraph and by adding the following definitions in alphabetical order, to read as follows:

**§ 86.094–2 Definitions.**

The definitions of § 86.093–2 remain effective. The definitions listed in this section are effective beginning with the 1994 model year.

* * * * *

*Gaseous fuel* means natural gas or liquefied petroleum gas.

* * * * *

*Liquefied petroleum gas* means a liquid hydrocarbon fuel that is stored under pressure and is composed primarily of species that are gases at atmospheric conditions (temperature = 25°C and pressure = 1 atm), excluding natural gas.

*Multi-fuel* means capable of operating on two or more different fuel types, either separately or simultaneously.

Natural gas means a fuel whose primary constituent is methane.

*Petroleum fuel* means liquid fuels normally derived from crude oil, excluding liquefied petroleum gas. Gasoline and diesel fuel are petroleum fuels.

* * * * *

19. Section 86.094–3 of subpart A is amended by revising paragraph (b) to read as follows:

**§ 86.094–3 Abbreviations.**

* * * * *

(b) The abbreviations in this section apply to this subpart, and also to Subparts B, E, F, H, M, N and P of this part, and have the following meanings:

ALVW—Adjusted Loaded Vehicle Weight
OMNMHCE—Organic Material Non-Methane Hydrocarbon Equivalent
PM—Particulate Matter
THC—Total Hydrocarbons
LPG—Liquefied Petroleum Gas
NMHC—Nonmethane Hydrocarbons

20. Section 86.094–8 of subpart A is amended by revising paragraph (a)(1)(i) introductory text and Tables A94–2, A94–3, A94–5 and A94–6 at the end of paragraph (a)(1)(i)(A) to read as follows:

**§ 86.094–8 Emission standards for 1994 and later model year light-duty vehicles.**

* * * * *

(a)(1) *Standards.* (i) Exhaust emissions from 1994 and later model year vehicles (optional for 1994 through 1996 model year gaseous-fueled vehicles) shall meet all standards in Tables A94–2, A94–3, A94–5 and A94–6 in the rows designated with the applicable fuel type, according to the implementation schedule in Tables A94–1 and A94–4, as follows:

(A) * * *

* * * * *

TABLE A94–2.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND $NO_X$

| Fuel | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ |
|---|---|---|---|---|---|---|---|
| Gasoline | Tier 0 | 0.41 | | | | 3.4 | 1.0 |
| Gasoline | Tier 1 | 0.41 | 0.25 | | | 3.4 | 0.4 |
| Diesel | Tier 0 | 0.41 | | | | 3.4 | 1.0 |
| Diesel | Tier 1 | 0.41 | 0.25 | | | 3.4 | 1.0 |
| Methanol | Tier 0 | | | 0.41 | | 3.4 | 1.0 |
| Methanol | Tier 1 | | | 0.41 | 0.25 | 3.4 | 0.4 |
| Natural Gas | Tier 0 | | 0.34 | | | 3.4 | 1.0 |
| Natural Gas | Tier 1 | | 0.25 | | | 3.4 | 0.4 |
| LPG | Tier 0 | 0.41 | | | | 3.4 | 1.0 |
| LPG | Tier 1 | 0.41 | 0.25 | | | 3.4 | 0.4 |

TABLE A94–3.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND $NO_X$

| Fuel | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ |
|---|---|---|---|---|---|---|---|
| Gasoline | Tier 0 | | | | | | |
| Gasoline | Tier 1 | | 0.31 | | | 4.2 | 0.6 |
| Diesel | Tier 0 | | | | | | |
| Diesel | Tier 1 | | 0.31 | | | 4.2 | 1.25 |
| Methanol | Tier 0 | | | | | | |
| Methanol | Tier 1 | | | | 0.31 | 4.2 | 0.6 |
| Natural Gas | Tier 0 | | | | | | |
| Natural Gas | Tier 1 | | 0.31 | | | 4.2 | 0.6 |
| LPG | Tier 0 | | | | | | |
| LPG | Tier 1 | | 0.31 | | | 4.2 | 0.6 |

* * * * *

TABLE A94–5.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR PM

| Fuel | Standards | PM |
|---|---|---|
| Gasoline | Tier 0 | |
| Gasoline | Tier 1 | 0.08 |
| Diesel | Tier 0 | 0.20 |
| Diesel | Tier 1 | 0.08 |
| Methanol | Tier 0 | [1] 0.20 |
| Methanol | Tier 1 | 0.08 |
| Natural Gas | Tier 0 | [1] 0.20 |
| Natural Gas | Tier 1 | 0.08 |
| LPG | Tier 0 | [1] 0.20 |
| LPG | Tier 1 | 0.08 |

[1] Applicable only to diesel-cycle vehicles.

TABLE A94–6.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR PM

| Fuel | Standards | PM |
|---|---|---|
| Gasoline | Tier 0 | |
| Gasoline | Tier 1 | 0.10 |
| Diesel | Tier 0 | |
| Diesel | Tier 1 | 0.10 |
| Methanol | Tier 0 | |
| Methanol | Tier 1 | 0.10 |
| Natural Gas | Tier 0 | |
| Natural Gas | Tier 1 | 0.10 |
| LPG | Tier 0 | |
| LPG | Tier 1 | 0.10 |

* * * * *

21. Section 86.094–9 of subpart A is amended by revising Tables A94–8, A94–9, A94–11 and A94–12 at the end of paragraph (a)(1)(i)(A), Tables A94–14 and A94–15 at the end of paragraph (a)(1)(ii)(A), and paragraph (d)(1)(i)(A) and by adding paragraph (d)(1)(i)(C) to read as follows:

**§ 86.094–9 Emission standards for 1994 and later model year light-duty trucks.**

(a)(1) * * *

(i) * * *

(A) * * *

* * * * *

TABLE A94–8.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_X$

| Fuel | LVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | | | | | | |
| Gasoline | 0–3750 | Tier 1 | | 0.25 | | | 3.4 | 0.4 |
| Gasoline | 3751–5750 | Tier 0 | | | | | | |
| Gasoline | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 |
| Diesel | 0–3750 | Tier 0 | | | | | | |
| Diesel | 0–3750 | Tier 1 | | 0.25 | | | 3.4 | 1.0 |
| Diesel | 3751–5750 | Tier 0 | | | | | | |
| Diesel | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | |
| Methanol | 0–3750 | Tier 0 | | | | | | |
| Methanol | 0–3750 | Tier 1 | | | | 0.25 | 3.4 | 0.4 |
| Methanol | 3751–5750 | Tier 0 | | | | | | |
| Methanol | 3751–5750 | Tier 1 | | | | 0.32 | 4.4 | 0.7 |
| Natural Gas | 0–3750 | Tier 0 | | | | | | |
| Natural Gas | 0–3750 | Tier 1 | | 0.25 | | | 3.4 | 0.4 |
| Natural Gas | 3751–5750 | Tier 0 | | | | | | |
| Natural Gas | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 |
| LPG | 0–3750 | Tier 0 | | | | | | |
| LPG | 0–3750 | Tier 1 | | 0.25 | | | 3.4 | 0.4 |
| LPG | 3751–5750 | Tier 0 | | | | | | |
| LPG | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 |

TABLE A94–9.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_X$

| Fuel | LVW (lbs) | Standards | THC[1] | NMHC | OMHCE[1] | OMNMHCE | CO | $NO_X$ |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Gasoline | 0–3750 | Tier 1 | 0.80 | 0.31 | | | 4.2 | 0.6 |
| Gasoline | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Gasoline | 3751–5750 | Tier 1 | 0.80 | 0.40 | | | 5.5 | 0.97 |
| Diesel | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Diesel | 0–3750 | Tier 1 | 0.80 | 0.31 | | | 4.2 | 1.25 |
| Diesel | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Diesel | 3751–5750 | Tier 1 | 0.80 | 0.40 | | | 5.5 | 0.97 |
| Methanol | 0–3750 | Tier 0 | | | 0.80 | | 10 | 1.2 |
| Methanol | 0–3750 | Tier 1 | | | 0.80 | 0.31 | 4.2 | 0.6 |
| Methanol | 3751–5750 | Tier 0 | | | 0.80 | | 10 | 1.7 |
| Methanol | 3751–5750 | Tier 1 | | | 0.80 | 0.40 | 5.5 | 0.97 |
| Natural Gas | 0–3750 | Tier 0 | | 0.67 | | | 10 | 1.2 |
| Natural Gas | 0–3750 | Tier 1 | | 0.31 | | | 4.2 | 0.6 |
| Natural Gas | 3751–5750 | Tier 0 | | 0.67 | | | 10 | 1.7 |
| Natural Gas | 3751–5750 | Tier 1 | | 0.40 | | | 5.5 | 0.97 |
| LPG | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| LPG | 0–3750 | Tier 1 | 0.80 | 0.31 | | | 4.2 | 0.6 |
| LPG | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| LPG | 3751–5750 | Tier 1 | 0.80 | 0.40 | | | 5.5 | 0.97 |

Full useful life is 11 years or 120,000 miles, whichever occurs first.

TABLE A94–11.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

| Fuel | LVW (lbs) | Standards | PM |
|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | |
| Gasoline | 0–3750 | Tier 1 | 0.08 |
| Gasoline | 3751–5750 | Tier 0 | |
| Gasoline | 3751–5750 | Tier 1 | 0.08 |
| Diesel | 0–3750 | Tier 0 | |
| Diesel | 0–3750 | Tier 1 | 0.08 |
| Diesel | 3751–5750 | Tier 0 | |
| Diesel | 3751–5750 | Tier 1 | 0.08 |
| Methanol | 0–3750 | Tier 0 | |
| Methanol | 0–3750 | Tier 1 | 0.08 |
| Methanol | 3751–5750 | Tier 0 | |
| Methanol | 3751–5750 | Tier 1 | 0.08 |
| Natural Gas | 0–3750 | Tier 0 | |
| Natural Gas | 0–3750 | Tier 1 | 0.08 |
| Natural Gas | 3751–5750 | Tier 0 | |
| Natural Gas | 3751–5750 | Tier 1 | 0.08 |
| LPG | 0–3750 | Tier 0 | |
| LPG | 0–3750 | Tier 1 | 0.08 |
| LPG | 3751–5750 | Tier 0 | |
| LPG | 3751–5750 | Tier 1 | 0.08 |

TABLE A94–12.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

| Fuel | LVW (lbs) | Standards | PM |
|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | |
| Gasoline | 0–3750 | Tier 1 | 0.10 |
| Gasoline | 3751–5750 | Tier 0 | |
| Gasoline | 3751–5750 | Tier 1 | 0.10 |
| Diesel | 0–3750 | Tier 0 | 0.26 |
| Diesel | 0–3750 | Tier 1 | 0.10 |
| Diesel | 3751–5750 | Tier 0 | 0.13 |
| Diesel | 3751–5750 | Tier 1 | 0.10 |
| Methanol | 0–3750 | Tier 0 | [1] 0.26 |
| Methanol | 0–3750 | Tier 1 | 0.10 |
| Methanol | 3751–5750 | Tier 0 | [1] 0.13 |
| Methanol | 3751–5750 | Tier 1 | 0.10 |
| Natural Gas | 0–3750 | Tier 0 | [1] 0.26 |
| Natural Gas | 0–3750 | Tier 1 | 0.10 |
| Natural Gas | 3751–5750 | Tier 0 | [1] 0.13 |
| Natural Gas | 3751–5750 | Tier 1 | 0.10 |
| LPG | 0–3750 | Tier 0 | [1] 0.26 |
| LPG | 0–3750 | Tier 1 | 0.10 |
| LPG | 3751–5750 | Tier 0 | [1] 0.13 |
| LPG | 3751–5750 | Tier 1 | 0.10 |

[1] Applicable only to diesel-cycle vehicles.

* * * * *

(ii) * * *

(A) * * *

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TABLE A94–14.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCs, CO, $NO_x$ and PM

| Fuel | ALVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|---|
| Gasoline | 3751–5750 | Tier 0 | | | | | | | |
| Gasoline | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 | |
| Gasoline | > 5750 | Tier 0 | | | | | | | |
| Gasoline | > 5750 | Tier 1 | | 0.39 | | | 5.0 | 1.1 | |
| Diesel | 3751–5750 | Tier 0 | | | | | | | |
| Diesel | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | | |
| Diesel | > 5750 | Tier 0 | | | | | | | |
| Diesel | > 5750 | Tier 1 | | 0.39 | | | 5.0 | | |
| Methanol | 3751–5750 | Tier 0 | | | | | | | |
| Methanol | 3751–5750 | Tier 1 | | | | 0.32 | 4.4 | 0.7 | |
| Methanol | > 5750 | Tier 0 | | | | | | | |
| Methanol | > 5750 | Tier 1 | | | | 0.39 | 5.0 | 1.1 | |
| Natural Gas | 3751–5750 | Tier 0 | | | | | | | |

TABLE A94–14.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO, $NO_X$ and PM—Continued

| Fuel | ALVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ | PM |
|---|---|---|---|---|---|---|---|---|---|
| Natural Gas | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 | |
| Natural Gas | > 5750 | Tier 0 | | | | | | | |
| Natural Gas | > 5750 | Tier 1 | | 0.39 | | | 5.0 | 1.1 | |
| LPG | 3751–5750 | Tier 0 | | | | | | | |
| LPG | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 | |
| LPG | > 5750 | Tier 0 | | | | | | | |
| LPG | > 5750 | Tier 1 | | 0.39 | | | 5.0 | 1.1 | |

TABLE A94–15.—FULL USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO, $NO_X$ AND PM

| Fuel | LVW (lbs) | ALVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ | PM |
|---|---|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 | |
| Gasoline | >3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 | |
| Gasoline | | 3751–5750 | Tier 1 | 0.80 | 0.46 | | | 6.4 | 0.98 | 0.10 |
| Gasoline | | >5750 | Tier 1 | 0.80 | 0.56 | | | 7.3 | 1.53 | 0.12 |
| Diesel | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.20 | 0.26 |
| Diesel | >3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 | 0.13 |
| Diesel | | 3751–5750 | Tier 1 | 0.80 | 0.46 | | | 6.4 | 0.98 | 0.10 |
| Diesel | | >5750 | Tier 1 | 0.80 | 0.56 | | | 7.3 | 1.53 | 0.12 |
| Methanol | 0–3750 | | Tier 0 | | | 0.80 | | 10 | 1.2 | [1] 0.26 |
| Methanol | >3750 | | Tier 0 | | | 0.80 | | 10 | 1.7 | [1] 0.13 |
| Methanol | | 3751–5750 | Tier 1 | | | 0.80 | 0.46 | 6.4 | 0.98 | 0.10 |
| Methanol | | >5750 | Tier 1 | | | 0.80 | 0.56 | 7.3 | 1.53 | 0.12 |
| Natural Gas | 0–3750 | | Tier 0 | | 0.67 | | | 10 | 1.2 | [1] 0.26 |
| Natural Gas | >3750 | | Tier 0 | | 0.67 | | | 10 | 1.7 | [1] 0.13 |
| Natural Gas | | 3751–5750 | Tier 1 | | 0.46 | | | 6.4 | 0.98 | 0.10 |
| Natural Gas | | >5750 | Tier 1 | | 0.56 | | | 7.3 | 1.53 | 0.12 |
| LPG | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 | [1] 0.26 |
| LPG | >3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 | [1] 0.13 |
| LPG | | 3751–5750 | Tier 1 | 0.80 | 0.46 | | | 6.4 | 0.98 | 0.10 |
| LPG | | >5750 | Tier 1 | 0.80 | 0.56 | | | 7.3 | 1.53 | 0.12 |

[1] Applicable only to diesel-cycle vehicles.

* * * * *

(d) * * *

(1) * * *

(i)(A) *Hydrocarbons (for Otto-cycle and diesel light-duty trucks when fueled with petroleum fuel and/or liquefied petroleum gas).* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer).

* * * * *

(C) *Nonmethane hydrocarbons (for Otto-cycle and diesel light-duty trucks when fueled with natural gas).* 0.83 gram per vehicle mile (0.52 gram per vehicle kilometer).

* * * * * *

22. Section 86.094–11 of subpart A is amended by revising the section heading, by revising paragraphs (a)(1) introductory text, (a)(1)(i)(A), (a)(1)(ii)(B) and (c), and adding a new paragraph (a)(1)(i)(C) to read as follows:

**§ 86.094–11 Emission standards for 1994 and later model year diesel heavy-duty engines and vehicles.**

(a)(1) Exhaust emissions from new 1994 and later model year diesel heavy-duty engines shall not exceed the following (optional for 1994 through 1996 model year new natural gas- and liquefied petroleum gas-fueled heavy-duty engines):

(i)(A) *Hydrocarbons (for diesel engines fueled with either petroleum-fuel or liquefied petroleum gas).* 1.3 grams per brake horsepower-hour (0.48 gram per megajoule), as measured under transient operating conditions.

* * * * *

(C) *Nonmethane hydrocarbons (for natural gas-fueled diesel engines).* 1.2 grams per brake horsepower-hour (0.45 gram per megajoule), as measured under transient operating conditions.

(ii) * * *

(B) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas- and liquefied petroleum gas-fueled diesel only).

* * * * *

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1994 or later model year methanol-fueled diesel, or any naturally-aspirated diesel heavy-duty engine (optional for 1994 through 1996 model year natural gas- and liquefied petroleum gas-fueled engines). For petroleum-, natural gas- and liquefied petroleum gas-fueled engines only; this provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

* * * * *

23. Section 86.094–17 of subpart A is amended by revising paragraph (a) introductory text to read as follows:

**§ 86.094–17 Emission control diagnostic system for 1994 and later light-duty vehicles and light-duty trucks.**

(a) All light-duty vehicles and light-duty trucks shall be equipped with an emission control diagnostic system capable of identifying, for each vehicle's useful life, the following types of deterioration or malfunction which could cause emission increases greater than or exceeding the following threshold levels as measured and calculated in accordance with test procedures set forth in subpart B of this part. Paragraphs (a)(2) and (a)(3) of this section do not apply to diesel cycle light-duty vehicles or light-duty trucks. Paragraphs (a)(1) through (a)(4) of this section do not apply to natural gas-fueled light-duty vehicles and light-duty trucks until the 1998 model year.

* * * * *

24. Section 86.094–23 of subpart A is amended by revising paragraphs (b)(3), (b)(4), (c)(1) and (c)(2)(i), to read as follows:

**§ 86.094–23 Required data.**

* * * * *

(b) * * *

(3) For heavy-duty vehicles equipped with gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled or methanol-fueled engines, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.091–21(b)(4)(ii). Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations and the service accumulation effects of vibration, time, vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.091–30 will meet the evaporative emission standards in § 86.091–10 and § 86.091–11 in actual use for the useful life of the engine. Furthermore, a statement that a description of the test procedure, as well as all data, analyses and evaluations, is available to the Administrator upon request.

(4)(i) For heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds and equipped with gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled or methanol-fueled engines, a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.091–10 or § 86.091–11 (as applicable) as determined by the provisions of § 86.091–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations and other documents, on which the above statement is based, are available to the Administrator upon request.

(ii) For heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds and equipped with gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled or methanol-fueled engines, a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.091–10 or § 86.091–11 (as applicable) as determined by the provisions of § 86.091–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations and other documents, on which the above statement is based, are available to the Administrator upon request.

(c) * * *

(1) Emission data, including in the case of methanol fuel, methanol, formaldehyde and organic material hydrocarbon equivalent, exhaust methane data in the case of vehicles meeting a non-methane hydrocarbon standard on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.090–26(a)(3)(i) or § 86.090–26(a)(3)(ii). In lieu of providing emission data the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests or other information) that the engine will conform with certain applicable emission standards of § 86.094–8 or § 86.094–9. Standards eligible for such manufacturer requests are those for idle CO emissions, smoke emissions, or particulate emissions from methanol-fueled, natural gas-fueled and liquefied petroleum gas-fueled diesel-cycle certification vehicles, on evaporative emissions or refueling emissions from natural gas-fueled or liquefied petroleum gas-fueled vehicles (light-duty and heavy-duty), and those for particulate emissions from model year 1994 and later gasoline-fueled, methanol-fueled, natural gas-fueled or liquefied petroleum gas-fueled Otto-cycle certification vehicles that are not certified to the Tier 0 standards of § 86.094–9 (a)(1)(i), (a)(1)(ii), or § 86.094–8(a)(1)(i). Also eligible for such requests are standards for total hydrocarbon emissions from model year 1994 and later certification vehicles that are not certified to the Tier 0 standards of § 86.094–9 (a)(1)(i), (a)(1)(ii) or § 86.094–8(a)(1)(i). By separate request, including appropriate supporting test data, the manufacturer may request that the Administrator also waive the requirement to measure particulate emissions when conducting Selective Enforcement Audit testing of Otto-cycle vehicles, or the requirement to measure evaporative emissions when conducting Selective Enforcement Audit testing of natural gas or liquefied petroleum gas-fueled vehicles.

(2) * * *

(i) Emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if generated, and emission data generated for certification as required under § 86.090–26(c)(4). In lieu of providing emission data on idle CO emissions, smoke emissions or particulate emissions from methanol-fueled, natural gas-fueled or liquefied petroleum gas-fueled diesel certification engines, or on CO emissions from petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled, or methanol-fueled diesel certification engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests or other information) that the engine will conform with the applicable emission standards of § 86.091–11, or § 86.094–11.

* * * * *

25. Section 86.094–24 of subpart A is amended by revising paragraphs (a)(5), (a)(6) introductory text, (a)(12), (a)(13) introductory text, (a)(14) introductory text and (a)(15), by removing "; and" from the end of paragraph (a)(13)(i) and adding a period in its place, and by adding paragraphs (a)(6)(iv) and (a)(13)(iii), to read as follows:

**§ 86.094–24 Test vehicles and engines.**

(a) * * *

(5) Light-duty vehicles and light-duty trucks covered by an application for certification will be divided into groupings (e.g., by fuel type) which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) For light-duty vehicles and light-duty trucks to be classed in the same evaporative emission family, vehicles must be similar with respect to:

* * * * *

(iv) Fuel type.

* * * * *

(12) Vehicles powered by heavy-duty engines covered by an application for certification and using fuels for which there is an applicable evaporative emission standard will be divided into groupings of vehicles on the basis of physical features, including fuel type, which are expected to affect evaporative emissions. Each group of vehicles with similar features shall be defined as a separate evaporative emission family.

(13) For vehicles equipped with heavy-duty engines using fuels for which there are applicable evaporative emission standards to be classed in the same evaporative emission family,

vehicles must be identical with respect to:

* * * * *

(iii) Fuel type.

(14) For vehicles equipped with heavy-duty engines using fuels for which there are applicable evaporative emission standards to be classed in the same evaporative emission control system family, vehicles must be identical with respect to:

* * * * *

(15) Where vehicles equipped with heavy-duty engines using fuels for which there are applicable evaporative emission standards and which cannot be divided into evaporative emission family-control system combinations based on the criteria listed above, the Administrator will establish evaporative emission family-control system combinations for those vehicles based on features most related to their evaporative emission characteristics.

* * * * *

26. Section 86.095–35 of subpart A is amended by revising paragraphs (a)(4) heading, (a)(4)(i), (a)(4)(iii)(D), (a)(4)(iii)(E), (c)(1)(ii)(A), (c)(1)(ii)(B)(*1*), and (g)(1), to read as follows:

**§ 86.095–35 Labeling.**

* * * * *

(a) * * *

(4) *Heavy-duty vehicles employing a fuel or fuels covered by evaporative emission standards.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment. If such vehicles do not have an engine compartment, the label required in paragraphs (a)(4) and (g)(1) of this section shall be affixed in a readily available position on the operator's enclosure or on the engine.

* * * * *

(iii) * * *

(D) The maximum nominal fuel tank capacity (in gallons) for which the evaporative control system is certified (this requirement does not apply to vehicles whose evaporative control system efficiency is not dependent on fuel tank capacity); and

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to XXX-fueled heavy-duty vehicles.

* * * * *

(c)(1) * * *

(ii)(A) *For light-duty vehicles,* the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to XXX-Fueled 19XX Model Year New Motor Vehicles."

(B) * * *

(*1*) the statement: "This vehicle conforms to U.S. EPA regulations applicable to XXX-Fueled 19XX Model Year New Light-Duty Trucks."

* * * * *

(g) * * *

(1) Incomplete heavy-duty vehicles employing a fuel or fuels which are nominally liquid at normal atmospheric pressure and temperature for which evaporative emission standards exist shall have the following prominent statement printed on the label required in paragraph (a)(4) of this section: "(Manufacturer's corporate name) has determined that this vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New XXX-Fueled Heavy-Duty Vehicles when completed with a nominal fuel tank capacity not to exceed XXX gallons. Persons wishing to add fuel tank capacity beyond the above maximum must submit a written statement to the Administrator that the hydrocarbon storage system has been upgraded according to the requirements of 40 CFR 86.095–35(g)(2)."

* * * * *

27. Section 86.096–8 of subpart A is amended by revising paragraph (a)(1)(i) including Tables A96–1 and A96–2, and paragraph (b)(1), to read as follows:

**§ 86.096–8 Emission standards for 1996 and later model year light-duty vehicles.**

(a)(1) * * *

(i) Exhaust emissions from 1996 and later model year light-duty vehicles (optional for 1996 model year natural gas-fueled and liquefied petroleum gas-fueled light-duty vehicles) shall meet all standards in Tables A96–1 and A96–2 in the rows designated with the applicable fuel type. Light-duty vehicles shall not exceed the applicable standards in Table A96–1 and shall not exceed the applicable standards in Table A96–2.

TABLE A96–1.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) for Light-Duty Vehicles

| Fuel | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|
| Gasoline | 0.41 | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| Diesel | 0.41 | 0.25 | ..... | ..... | 3.4 | 1.0 | 0.08 |
| Methanol | ..... | ..... | 0.41 | 0.25 | 3.4 | 0.4 | 0.08 |
| Natural Gas | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| LPG | 0.41 | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |

TABLE A96–2.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES

| Fuel | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|
| Gasoline | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| Diesel | ..... | 0.31 | ..... | ..... | 4.2 | 1.25 | 0.10 |
| Methanol | ..... | ..... | ..... | 0.31 | 4.2 | 0.6 | 0.10 |
| Natural Gas | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| LPG | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |

* * * * *

(b) * * *

(1) *Hydrocarbons (for gasoline-fueled, natural gas-fueled and liquefied petroleum gas-fueled vehicles).* (i)(A) For the full three-diurnal test sequence described in § 86.130–96, diurnal plus hot soak measurements: 2.0 grams per test.

(B) For the supplemental two-diurnal test sequence described in § 86.130–96, diurnal plus hot soak emissions (gasoline-fueled vehicles only): 2.5 grams per test.

(ii) *Running loss test (gasoline-fueled vehicles only):* 0.05 grams per mile.

(iii) *Fuel dispensing spitback test (gasoline-fueled vehicles only):* 1.0 grams per test.

* * * * *

28. Section 86.096–9 of subpart A is amended by revising paragraphs (b)(1)

heading, (b)(1)(i)(A) introductory text, (b)(1)(i)(B)(*2*), (b)(1)(ii) and (b)(1)(iii), to read as follows:

**§ 86.096–9 Emission standards for 1996 and later model year light-duty trucks.**

* * * * *

(b) * * *

(1) *Hydrocarbons (for gasoline-fueled, natural gas-fueled and liquefied petroleum gas-fueled vehicles).* (i)(A) For gasoline-fueled heavy light-duty trucks with a nominal fuel tank capacity of at least 30 gallons:

* * * * *

(B) * * *

(*2*) For the supplemental two-diurnal test sequence described in § 86.130–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 2.5 grams per test.

(ii) *Running loss test (gasoline-fueled vehicles only):* 0.05 grams per mile.

(iii) *Fuel dispensing spitback test (gasoline-fueled vehicles only):* 1.0 grams per test.

* * * * *

29. Section 86.096–10 of subpart A is amended by revising paragraphs (b)(1) heading, (b)(1)(i)(A)(*2*), (b)(1)(i)(B), (b)(1)(i)(C), (b)(1)(ii)(A)(*2*) and (b)(1)(ii)(B), to read as follows:

**§ 86.096–10 Emission standards for 1996 and later model year Otto-cycle heavy-duty engines and vehicles.**

* * * * *

(b) * * *

(1) *Hydrocarbons (for vehicles equipped with gasoline-fueled, natural gas-fueled or liquefied petroleum gas-fueled engines).*

(i) * * *

(A) * * *

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 3.5 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

(C) Fuel dispensing spitback test (gasoline-fueled vehicles only): 1.0 gram per test.

(ii) * * *

(A) * * *

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 4.5 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

* * * * *

30. Section 86.096–11 of subpart A is amended by revising the section heading, by revising paragraphs (a)(1)(i), (a)(2)(ii) and (c), redesignating paragraph (b)(4) as paragraph (b)(5) and revising it, and adding new paragraphs (a)(1)(iii) and (b)(4), to read as follows:

**§ 86.096–11 Emission standards for 1996 and later model year diesel heavy-duty engines and vehicles.**

(a) * * *

(1)(i) *Hydrocarbons (for diesel engines fueled with either petroleum-fuel or liquefied petroleum gas).* 1.3 grams per brake horsepower-hour (0.48 gram per megajoule), as measured under transient operating conditions.

* * * * *

(iii) *Nonmethane hydrocarbons (for natural gas-fueled diesel engines).* 1.2 grams per brake horsepower-hour (0.45 gram per megajoule), as measured under transient operating conditions.

(2) * * *

(ii) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas-, and liquefied petroleum gas-fueled diesel only).

* * * * *

(b) * * *

(4) *Evaporative emissions* from 1996 and later model year heavy-duty vehicles equipped with natural gas-fueled or liquefied petroleum gas-fueled heavy-duty engines shall not exceed the following standards. The standards apply equally to certification and in-use vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(5)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraphs (b)(3) and (b)(4) of this section refer to a composite sample of evaporative emissions collected under the conditions set forth in subpart M of this part and measured in accordance with those procedures.

(ii) For vehicles with a Gross Vehicle Weight Rating greater than 26,000 pounds, the standards set forth in paragraphs (b)(3)(ii) and (b)(4)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1996 or later model year methanol-fueled diesel, or any naturally-aspirated diesel heavy-duty engine. For petroleum-, natural gas-, and liquefied petroleum gas-fueled engines only, this provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

* * * * *

31. Section 86.097–9 of subpart A is amended by revising Tables A97–1 and A97–2 in paragraph (a)(1)(i)(A), and Tables A97–3 and A97–4 in paragraph (a)(1)(ii)(A), to read as follows:

**§ 86.097–9 Emission standards for 1997 and later model year light-duty trucks.**

(a)(1) * * *

(i) * * *

(A) * * *

TABLE A97–1.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS

| Fuel | LVW (lbs) | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| Gasoline | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.08 |
| Diesel | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 1.0 | 0.08 |
| Diesel | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | ..... | 0.08 |
| Methanol | 0–3750 | ..... | ..... | ..... | 0.25 | 3.4 | 0.4 | 0.08 |
| Methanol | 3751–5750 | ..... | ..... | ..... | 0.32 | 4.4 | 0.7 | 0.08 |
| Natural Gas | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| Natural Gas | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.08 |
| LPG | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| LPG | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.08 |

TABLE A97–2.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS

| Fuel | LVW (lbs) | THC[1] | NMHC | OMHCE[1] | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | 0.80 | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| Gasoline | 3751–5750 | 0.80 | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |
| Diesel | 0–3750 | 0.80 | 0.31 | ..... | ..... | 4.2 | 1.25 | 0.10 |
| Diesel | 3751–5750 | 0.80 | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |
| Methanol | 0–3750 | ..... | ..... | 0.80 | 0.31 | 4.2 | 0.6 | 0.10 |
| Methanol | 3751–5750 | ..... | ..... | 0.80 | 0.40 | 5.5 | 0.97 | 0.10 |
| Natural Gas | 0–3750 | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0 10 |
| Natural Gas | 3751–5750 | ..... | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |
| LPG | 0–3750 | 0.80 | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| LPG | 3751–5750 | 0.80 | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |

[1] Full useful life is 11 years or 120,000 miles, whichever occurs first.

* * * * *

(ii) * * *

(A) * * *

TABLE A97–3.—INTERMEDIATE USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS

| Fuel | ALVW (lbs) | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | ..... |
| Gasoline | >5750 | ..... | 0.39 | ..... | ..... | 5.0 | 1.1 | ..... |
| Diesel | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | ..... | ..... |
| Diesel | >5750 | ..... | 0.39 | ..... | ..... | 5.0 | ..... | ..... |
| Methanol | 3751–5750 | ..... | ..... | ..... | 0.32 | 4.4 | 0.7 | ..... |
| Methanol | >5750 | ..... | ..... | ..... | 0.39 | 5.0 | 1.1 | ..... |
| Natural Gas | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | ..... |
| Natural Gas | >5750 | ..... | 0.39 | ..... | ..... | 5.0 | 1.1 | ..... |
| LPG | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | ..... |
| LPG | >5750 | ..... | 0.39 | ..... | ..... | 5.0 | 1.1 | ..... |

TABLE A97–4.—FULL USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS

| Fuel | ALVW (lbs) | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 3751–5750 | 0.80 | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| Gasoline | >5750 | 0.80 | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |
| Diesel | 3751–5750 | 0.80 | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| Diesel | >5750 | 0.80 | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |
| Methanol | 3751–5750 | ..... | ..... | 0.80 | 0.46 | 6.4 | 0.98 | 0.10 |
| Methanol | >5750 | ..... | ..... | 0.80 | 0.56 | 7.3 | 1.53 | 0.12 |
| Natural Gas | 3751–5750 | ..... | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| Natural Gas | >5750 | ..... | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |
| LPG | 3751–5750 | 0.80 | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| LPG | >5750 | 0.80 | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |

* * * * *

32. Section 86.098–2 of subpart A is amended by adding the definition for "Fixed liquid level gauge" in alphabetical order, to read as follows:

**§ 86.098–2 Definitions.**

* * * * *

*Fixed liquid level gauge* means a type of liquid level gauge used on liquefied petroleum gas-fueled vehicles which uses a relatively small positive shutoff valve and is designed to indicate when the liquid level in the fuel tank being filled reaches the proper fill level. The venting of fuel vapor and/or liquid fuel to the atmosphere during the refueling event is generally associated with the use of the fixed liquid level gauge.

* * * * *

33. Section 86.098–8 of subpart A is amended by adding new paragraphs (d)(1)(iii) and (d)(1)(iv), to read as follows:

**§ 86.098–8 Emission standards for 1998 and later model year light-duty vehicles.**

* * * * *

(d) * * *

(1) * * *

(iii) *Hydrocarbons (for liquefied petroleum gas-fueled vehicles).* 0.15 gram per gallon (0.04 gram per liter) of fuel dispensed.

(iv) *Refueling receptacle (for natural gas-fueled vehicles).* Refueling receptacles on natural gas-fueled vehicles shall comply with the receptacle provisions of the ANSI/AGA NGV1 standard-1994 (as incorporated by reference in § 86.1).

* * * * *

34. Section 86.098–10 of subpart A is amended by revising paragraphs (a)(1)(i) introductory text, (a)(1)(i)(B)(*2*), (a)(1)(ii) introductory text, (a)(1)(ii)(B)(*2*), (a)(3)(i) and (a)(3)(ii), and by adding new paragraphs (a)(1)(i)(C)(*3*), (a)(1)(ii)(C)(*3*), (a)(1)(v) and (a)(1)(vi), to read as follows:

**§ 86.098–10 Emission standards for 1998 and later model year Otto-cycle heavy-duty engines and vehicles.**

* * * * *

(a)(1) * * *

(i) *For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas,* and intended for use in all vehicles except as provided in paragraph (a)(3) of this paragraph.

* * * * *

(B) * * *

(*2*) *For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas and utilizing aftertreatment technology:* 0.50 percent of exhaust gas flow at curb idle.

(C) * * *

(*3*) A manufacturer may elect to include any or all of its liquified petroleum gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_x$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.094–15. If the manufacturer elects to include engine families in any of these programs, the $NO_x$ FELs may not exceed 5.0 grams per brake horsepower-hour (1.9 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

(ii) *For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas,* and intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds.

* * * * *

(B) * * *

(*2*) *For Otto-cycle heavy-duty engines fueled with either gasoline or liquefied petroleum gas and utilizing aftertreatment technology:* 0.50 percent of exhaust gas flow at curb idle.

(C) * * *

(*3*) A manufacturer may elect to include any or all of its liquified petroleum gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_x$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.094–15. If the manufacturer elects to include engine families in any of these programs, the $NO_x$ FELs may not exceed 5.0 grams per brake horsepower-hour (1.9 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

* * * * *

(v) *For natural gas-fueled Otto-cycle heavy-duty engines* intended for use in all vehicles except as provided in paragraph (a)(3) of this section.

(A) *Nonmethane hydrocarbons.* 0.9 gram per brake horsepower-hour (0.33 gram per megajoule), as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 14.4 grams per brake horsepower-hour (5.36 grams per megajoule), as measured under transient operating conditions.

(*2*) *For natural gas-fueled Otto-cycle heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust flow at curb idle.

(C) *Oxides of nitrogen.* (*1*) 5.0 grams per brake horsepower-hour (1.9 grams per megajoule), as measured under transient operating conditions.

(*2*) A manufacturer may elect to include any or all of its natural gas-fueled Otto-cycle heavy-duty engine families in any or all of the $NO_x$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.094–15. If the manufacturer elects to include engine families in any of these programs, the $NO_x$ FELs may not exceed 5.0 grams per brake horsepower-hour (1.9 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

(vi) For *natural gas-fueled Otto-cycle engines* intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds.

(A) *Nonmethane hydrocarbons.* 1.7 grams per brake horsepower-hour (0.63 gram per megajoule), as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 37.1 grams per brake horsepower-hour (13.8 grams per megajoule), as measured under transient operating conditions.

(*2*) *For natural gas-fueled Otto-cycle heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) *Oxides of nitrogen.* (*1*) 5.0 grams per brake horsepower-hour (1.9 grams per megajoule), as measured under transient operating conditions.

(*2*) A manufacturer may elect to include any or all of its natural gas-fueled Otto-cycle heavy-duty engine families in any or all or the $NO_x$ averaging, trading or banking programs for heavy-duty engines, within the restrictions described in § 86.094–15. If the manufacturer elects to include engine families in any of these programs, the $NO_x$ FELs may not exceed 5.0 grams per brake horsepower-hour (1.9 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

* * * * *

(3)(i) A manufacturer may certify one or more Otto-cycle heavy-duty engine configurations intended for use in all vehicles to the emission standards set forth in paragraphs (a)(1)(ii), (a)(1)(iv) or (a)(1)(vi) of this paragraph: *Provided,* that the total model year sales of such configuration(s), segregated by fuel type, being certified to the emission standards in paragraph (a)(1)(ii) of this section represent no more than five percent of total model year sales of each fuel type Otto-cycle heavy-duty engine intended for use in vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds by the manufacturer.

(ii) The configurations certified to the emission standards of paragraphs (a)(1)(ii) and (vi) of this section under the provisions of paragraph (a)(3)(i) of this section shall still be required to meet the evaporative emission standards set forth in paragraphs § 86.096–10(b)(1)(i), (b)(2)(i) and (b)(3)(i).

* * * * *

35. Section 86.098–11 of subpart A is amended by revising the section heading, by revising paragraphs (a)(1)(i), (a)(2)(ii) and (c), and adding new paragraphs (a)(1)(iii) and (b)(4), to read as follows:

**§ 86.098–11 Emission standards for 1998 and later model year diesel heavy-duty engines and vehicles.**

(a) * * *

(1)(i) *Hydrocarbons (for diesel engines fueled with either petroleum-fuel or liquefied petroleum gas).* 1.3 grams per brake horsepower-hour (0.48 gram per megajoule), as measured under transient operating conditions.

* * * * *

(iii) *Nonmethane hydrocarbons (for natural gas-fueled diesel engines).* 1.2 grams per brake horsepower-hour (0.45 gram per megajoule), as measured under transient operating conditions.

(2) * * *

(ii) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas-, and liquefied petroleum gas-fueled diesel only).

* * * * *

(b) * * *

(4) *Evaporative emissions* from 1998 and later model year heavy-duty vehicles equipped with natural gas-fueled or liquefied petroleum gas-fueled heavy-duty engines shall not exceed the following standards. The standards apply equally to certification and in-use vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(iii)(A) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(4) of this section refer to a composite sample of evaporative emissions collected under the conditions set forth in subpart M of this part and measured in accordance with those procedures.

(B) For vehicles with a Gross Vehicle Weight Rating greater than 26,000 lbs, the standards set forth in paragraphs (b)(3)(ii) and (b)(4)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1998 or later model year methanol-, natural gas-, or liquefied petroleum gas-fueled diesel, or any naturally-aspirated diesel heavy-duty engine. For petroleum-fueled engines only, this provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

* * * * *

36. Section 86.098–28 of subpart A is amended by adding a new paragraph (h) to read as follows:

**§ 86.098–28 Compliance with emission standards.**

* * * * *

(h) *Fixed liquid level gauge waiver.* Liquefied petroleum gas-fueled vehicles which contain fixed liquid level gauges or other gauges or valves which can be opened to release fuel or fuel vapor during refueling, and which are being tested for refueling emissions, are not required to be tested with such gauges or valves open, as outlined in § 86.157–98(d)(2), provided the manufacturer can demonstrate, to the satisfaction of the Administrator, that such gauges or valves would not be opened during refueling in-use due to inaccessibility or other design features that would prevent or make it very unlikely that such gauges or valves could be opened.

37. Section 86.099–8 of subpart A is amended by revising paragraph (b)(1), and adding new paragraphs (d)(1)(iii) and (d)(1)(iv), to read as follows:

**§ 86.099–8 Emission standards for 1999 and later model year light-duty vehicles.**

* * * * *

(b) * * *

(1) *Hydrocarbons (for gasoline-fueled, natural gas-fueled, and liquefied petroleum gas-fueled vehicles).* (i)(A) For the full three-diurnal test sequence described in § 86.130–96, diurnal plus hot soak measurements: 2.0 grams per test.

(B) *For the supplemental two-diurnal test sequence described in § 86.130–96, diurnal plus hot soak emissions (gasoline-fueled vehicles only): 2.5 grams per test.*

(ii) *Running loss test (gasoline-fueled vehicles only):* 0.05 grams per mile.

(iii) *Fuel dispensing spitback test (gasoline-fueled vehicles only):* 1.0 grams per test.

* * * * *

(d) * * *

(1) * * *

(iii) *Hydrocarbons (for liquefied petroleum gas-fueled vehicles).* 0.15 gram per gallon (0.04 gram per liter) of fuel dispensed.

(iv) *Refueling receptacle (for natural gas-fueled vehicles).* Refueling receptacles on natural gas-fueled vehicles shall comply with the receptacle provisions of the ANSI/AGA NGV1–1994 standard (as incorporated by reference in § 86.1).

* * * * *

38. Section 86.099–9 of subpart A is amended by revising paragraphs (b)(1) heading, (b)(1)(i)(A) introductory text, (b)(1)(i)(B)(*2*), (b)(1)(ii) and (b)(1)(iii), to read as follows:

**§ 86.099–9 Emission standards for 1999 and later model year light-duty trucks.**

* * * * *

(b) * * *

(1) *Hydrocarbons (for gasoline-fueled, natural gas-fueled, and liquefied petroleum gas-fueled vehicles).* (i)(A) For gasoline-fueled heavy light-duty trucks with a nominal fuel tank capacity of at least 30 gallons:

* * * * *

(B) * * *

(*2*) For the supplemental two-diurnal test sequence described in § 86.130–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 2.5 grams per test.

(ii) *Running loss test (gasoline-fueled vehicles only):* 0.05 grams per mile.

(iii) *Fuel dispensing spitback test (gasoline-fueled vehicles only):* 1.0 grams per test.

* * * * *

39. Section 86.099–10 of subpart A is amended by revising paragraphs (b)(1) heading, (b)(1)(i)(A)(*2*), (b)(1)(i)(B), (b)(1)(i)(C), (b)(1)(ii)(A)(*2*) and (b)(1)(ii)(B), to read as follows:

**§ 86.099–10 Emission standards for 1999 and later model year Otto-cycle heavy-duty engines and vehicles.**

* * * * *

(b) * * *

(1) *Hydrocarbons (for vehicles equipped with gasoline-fueled, natural gas-fueled or liquefied petroleum gas-fueled engines).*

(i) * * *

(A) * * *

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 3.5 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

(C) Fuel dispensing spitback test (gasoline-fueled vehicles only): 1.0 gram per test.

(ii) * * *

(A) * * *

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 4.5 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

* * * * *

40. Section 86.099–11 of subpart A is amended by revising paragraphs (a)(1)(i), (a)(2)(ii) and (c), and adding new paragraphs (a)(1)(iii) and (b)(4), to read as follows:

**§ 86.099–11 Emission standards for 1999 and later model year diesel heavy-duty engines and vehicles.**

(a) * * *

(1)(i) *Hydrocarbons (for diesel engines fueled with either petroleum-fuel or liquefied petroleum gas).* 1.3 grams per brake horsepower-hour (0.48 gram per megajoule), as measured under transient operating conditions.

* * * * *

(iii) *Nonmethane hydrocarbons (for natural gas-fueled diesel engines).* 1.2 grams per brake horsepower-hour (0.45 gram per megajoule), as measured under transient operating conditions.

(2) * * *

(ii) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas-, and liquefied petroleum gas-fueled diesel only).

* * * * *

(b) * * *

(4) *Evaporative emissions* from 1999 and later model year heavy-duty vehicles equipped with natural gas-fueled or liquefied petroleum gas-fueled heavy-duty engines shall not exceed the following standards. The standards apply equally to certification and in-use vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000

pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(iii)(A) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(4) of this section refer to a composite sample of evaporative emissions collected under the conditions set forth in subpart M of this part and measured in accordance with those procedures.

(B) For vehicles with a Gross Vehicle Weight Rating greater than 26,000 pounds, the standards set forth in paragraphs (b)(3)(ii) and (b)(4)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1999 or later model year methanol-, natural gas-, or liquefied petroleum gas-fueled diesel, or any naturally-aspirated diesel heavy-duty engine. For petroleum-fueled engines only, this provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

* * * * *

41. Section 86.101 of subpart B is amended by revising paragraph (a)(3) to read as follows:

**§ 86.101 General applicability.**

(a) * * *

(3) Sections 86.150 through 86.157 describe the refueling test procedures for light-duty vehicles and light-duty trucks and apply for model years 1998 and later.

* * * * *

42. Section 86.104 of subpart B is amended by redesignating paragraph (b) as paragraph (c) and revising it, and adding a new paragraph (b) to read as follows:

**§ 86.104 Section numbering; construction.**

* * * * *

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated otherwise, all provisions in this subpart apply to petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled vehicles.

43. Section 86.105 of subpart B is amended by revising paragraph (b) to read as follows:

**§ 86.105 Introduction; structure of subpart.**

* * * * *

(b) Three topics are addressed in this subpart. Sections 86.106 through 86.115 set forth specifications and equipment requirements; §§ 86.116 through 86.126 discuss calibration methods and frequency; test procedures and data requirements are listed in §§ 86.127 through 86.157.

44. Section 86.106–94 of subpart B is amended by revising paragraph (a) to read as follows:

**§ 86.106–94 Equipment required; overview.**

(a) This subpart contains procedures for exhaust emissions tests on petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled light-duty vehicles and light-duty trucks, and for evaporative emission tests on gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled light-duty vehicles and light-duty trucks. Certain items of equipment are not necessary for a particular test, *e.g.*, evaporative enclosure when testing petroleum-fueled diesel vehicles. Alternate sampling systems may be used if shown to yield equivalent results and if approved in advance by the Administrator. Equipment required and specifications are as follows:

(1) *Evaporative emission tests.* The evaporative emission test is closely related to and connected with the exhaust emission test. All vehicles tested for evaporative emissions must be tested for exhaust emissions. Further, unless the evaporative emission test is waived by the Administrator under § 86.090–26, all vehicles must undergo both tests. (Petroleum-fueled diesel vehicles are excluded from the evaporative emission standard.) Section 86.107 specifies the necessary equipment.

(2) *Exhaust emission tests.* All vehicles subject to this subpart are subject to testing for both gaseous and particulate exhaust emissions using the CVS concept (§ 86.109), except where exemptions or waivers are expressly provided in subpart A of these regulations. Vehicles subject to the "Tier 0" (i.e., phase-out) standards described under subpart A are exempted from testing for methane emissions (except natural gas-fueled vehicles). Otto-cycle vehicles subject to the "Tier 0" standards are waived from testing for particulates. For vehicles waived from the requirement for measuring particulate emissions, use of a dilution tunnel is not required (§ 86.109). The CVS must be connected to the dilution tunnel if particulate emission sampling is required (§ 86.110). Petroleum- and methanol-fueled diesel-cycle vehicle testing requires that a PDP-CVS or CFV with heat exchanger be used. (This equipment may be used with methanol-fueled Otto-cycle vehicles; however, particulates need not be measured for vehicles that are waived from the requirement). All gasoline-fueled, methanol-fueled, natural gas-fueled and liquified petroleum gas-fueled vehicles are either tested for evaporative emissions or undergo a diurnal heat build. Petroleum-fueled diesel-cycle vehicles are excluded from this requirement. Equipment necessary and specifications appear in §§ 86.108 through 86.114.

(3) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for exhaust and evaporative emissions testing and for mileage accumulation are specified in § 86.113. Analytical gases are specified in § 86.114. The EPA Urban Dynamometer Driving Schedule (UDDS) for use in exhaust emissions tests is specified in § 86.115 and Appendix I of this part.

* * * * *

45. Section 86.106–96 of subpart B is amended by revising paragraph (a) to read as follows:

**§ 86.106–96 Equipment required; overview.**

(a) This subpart contains procedures for exhaust emissions tests on petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled light-duty vehicles and light-duty trucks, and for evaporative emission tests on gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled light-duty vehicles and light-duty trucks. Certain items of equipment are not necessary for a particular test, *e.g.*, evaporative enclosure when testing petroleum-fueled diesel vehicles. Alternate sampling systems may be used if shown to yield equivalent results and if approved in advance by the Administrator. Equipment required and specifications are as follows:

(1) *Evaporative emission tests.* The evaporative emission test is closely related to and connected with the exhaust emission test. All vehicles tested for evaporative emissions must undergo testing according to the test sequences described in § 86.130–96; however, the Administrator may omit measurement of exhaust emissions to test for evaporative emissions. The Administrator may truncate a test after any valid emission measurement without affecting the validity of the test. Further, unless the evaporative emission test is waived by the Administrator under § 86.090–26, all vehicles must

undergo both tests. (Petroleum-fueled diesel vehicles are excluded from the evaporative emission standard.) Section 86.107 specifies the necessary equipment.

(2) *Exhaust emission tests.* All vehicles subject to this subpart are subject to testing for both gaseous and particulate exhaust emissions using the CVS concept (see § 86.109), except where exemptions or waivers are expressly provided in subpart A of this part. Vehicles subject to the "Tier 0" (i.e., phase-out) standards described under subpart A of this part are exempted from testing for methane emissions. Otto-cycle vehicles subject to the "Tier 0" standards are waived from testing for particulates. For vehicles waived from the requirement for measuring particulate emissions, use of a dilution tunnel is not required (see § 86.109). The CVS must be connected to the dilution tunnel if particulate emission sampling is required (see § 86.110). Petroleum- and methanol-fueled diesel-cycle vehicle testing requires that a PDP-CVS or CFV-CVS with heat exchanger be used. (This equipment may be used with methanol-fueled Otto-cycle vehicles; however, particulates need not be measured for vehicles that are waived from the requirement). All vehicles equipped with evaporative canisters are preconditioned by loading the canisters with hydrocarbon vapors. Petroleum-fueled diesel vehicles are excluded from this requirement.

(3) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for exhaust and evaporative emissions testing and for mileage accumulation are specified in § 86.113. Analytical gases are specified in § 86.114. The EPA Urban Dynamometer Driving Schedule (UDDS) for use in exhaust emissions tests is specified in § 86.115 and Appendix I of this part.

* * * * *

46. Section 86.107–96 of subpart B is amended by revising paragraph (b)(1) to read as follows:

**§ 86.107–96 Sampling and analytical system; evaporative emissions.**

* * * * *

(b) * * *

(1) For gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled vehicles a hydrocarbon analyzer utilizing the hydrogen flame ionization principle (FID) shall be used to monitor the atmosphere within the enclosure (a heated FID (HFID)(235°±15°F (113°±8°C)) is required for methanol-fueled vehicles). For natural gas-fueled vehicles, the FID may be calibrated using methane, or if calibrated using propane the FID response to methane shall be determined and applied to the FID hydrocarbon reading. Provided evaporative emission results are not effected, a probe may be used to detect or verify hydrocarbon sources during a running loss test. Instrument bypass flow may be returned to the enclosure. The FID shall have a response time to 90 percent of final reading of less than 1.5 seconds.

* * * * *

47. Section 86.109–94 of subpart B is amended by revising paragraphs (b)(4) and (c)(4), to read as follows:

**§ 86.109–94 Exhaust gas sampling system; Otto-cycle vehicles not requiring particulate emission measurement.**

* * * * *

(b) * * *

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system. (300 to 350 cfm (0.142 to 0.165 $m^3/s$) is sufficient for most petroleum-fueled vehicles. Higher flow rates are required for methanol-fueled vehicles and may be required for natural gas-fueled and liquefied petroleum gas-fueled vehicles. Procedures for determining CVS flow rates are detailed in "Calculation of Emissions and Fuel Economy When Using Alternative Fuels," EPA 460/3–83–009. (Copies may be obtained from the U.S. Department of Commerce, NTIS, Springfield, Virginia 22161; order #PB 84104702.)

* * * * *

(c) * * *

(4) The flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system (300 to 350 cfm (0.142 to 0.165 $m^3/s$) is sufficient for most petroleum-fueled vehicles). Higher flow rates are required with methanol-fueled vehicles and may be required for natural gas-fueled and liquefied petroleum gas-fueled vehicles. Procedures for determining CVS flow rates are detailed in "Calculation of Emission and Fuel Economy When Using Alternative Fuels," EPA 460/3–83–009.

* * * * *

48. Section 86.110–94 of subpart B is amended by revising paragraphs (a)(2), (b) heading and introductory text and (b)(3), by redesignating paragraphs (a)(6) and (a)(7) as paragraphs (a)(7) and (a)(8), and by adding a new paragraph (a)(6), to read as follows:

**§ 86.110–94 Exhaust gas sampling system; diesel vehicles and Otto-cycle vehicles requiring particulate emissions measurements.**

* * * * *

(a) * * *

(2) Bag, continuous HFID (required for petroleum-fueled diesel-cycle and optional for methanol-fueled, natural gas-fueled and liquefied petroleum gas-fueled diesel-cycle vehicles), and particulate sampling capabilities as shown in Figure B94–5 (or Figure B94–6) are required to provide both gaseous and particulate emissions sampling capabilities from a single system.

* * * * *

(6) For natural gas-fueled and liquefied petroleum gas-fueled diesel vehicles either a heated flame ionization detector (HFID) [375°±20°F (191°±11°C)] or a non-heated flame ionization detector may be used for hydrocarbon analysis.

* * * * *

* * * * *

(b) *Component description—Otto-cycle, petroleum-fueled and liquefied petroleum gas-fueled diesel-cycle vehicles.* The components necessary for petroleum-fueled and liquefied petroleum gas-fueled diesel-cycle and Otto-cycle vehicle exhaust sampling shall meet the following requirements:

* * * * *

(3) For gasoline-fueled, natural gas-fueled and liquefied petroleum gas-fueled Otto-cycle and petroleum-fueled, natural gas- fueled and liquefied petroleum gas-fueled diesel-cycle vehicles, the transfer of heat from the vehicle exhaust gas shall be minimized between the point where it leaves the vehicle tailpipe(s) and the point where it enters the dilution tunnel airstream. To accomplish this, a short length (not more than 12 feet (365 cm) if uninsulated, or not more than 20 feet (610 cm) if insulated) of smooth stainless steel tubing from the tailpipe to the dilution tunnel is required. This tubing shall have a maximum inside diameter of 4.0 inches (10.2 cm). Short sections of flexible tubing at connection points are allowed.

* * * * *

49. Section 86.111–94 of subpart B is amended by revising paragraphs (b)(3) introductory text and (b)(3)(v) to read as follows:

**§ 86.111–94 Exhaust gas analytical system.**

* * * * *

(b) * * *

(3) For petroleum-fueled diesel vehicles (and if selected, for methanol-

fueled, natural gas-fueled and liquefied petroleum gas-fueled diesel vehicles) a continuous hydrocarbon sample shall be measured using a heated analyzer train as shown in Figure B90–5 (or B90–6). The train shall include a heated probe, a heated continuous sampling line, a heated particulate filter and a heated hydrocarbon instrument (HFID) complete with heated pump, filter and flow control system.

* * * * *

(v) For petroleum-fueled, natural gas-fueled and liquefied petroleum gas-fueled diesel vehicles, the sample line and filter shall be heated to maintain a sample gas temperature of 375° ±10°F (191° ±6°C) before the filter and before the HFID.

* * * * *

50. Section 86.113–94 of subpart B is revised to read as follows:

**§ 86.113–94 Fuel specifications.**

(a) *Gasoline fuel.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust and evaporative emission testing of petroleum-fueled Otto-cycle vehicles. Gasoline having the following specification or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust and evaporative testing except that octane specifications do not apply;

| Item | ASTM test method No. | Value |
|---|---|---|
| Octane, Research, Min | D2699 | 93 |
| Sensitivity, Min | | 7.5 |
| Lead (organic): | | |
| g/U.S. gal. (g/liter) | D3237 | [1] 0.050 |
| | | [1] (0.013) |
| Distillation Range: | | |
| IBP:[2] °F (°C) | D86 | 75–95 |
| | | (23.9–35) |
| 10 pct. point: °F (°C) | D86 | 120–135 |
| | | (48.9–57.2) |
| 50 pct. point: °F (°C) | D86 | 200–230 |
| | | (93.3–110) |
| 90 pct. point: °F (°C) | D86 | 300–325 |
| (148.9–162.8): | | |
| EP, max: °F (°C) | D86 | 415 |
| | | (212.8) |
| Sulfur, weight pct. max | D1266 | 0.10 |
| Phosphorus, max. g/U.S. gal. (g/liter) | D3231 | 0.005 |
| | | (0.0013) |
| RVP [3,4], psi (kPa) | D3231 | 8.7–9.2 |
| | | (60.0–63.4) |
| Hydrocarbon composition: | | |
| Olefins, max. pct | D1319 | 10 |
| Aromatics, max. pct | D1319 | 35 |
| Saturates | D1319 | [5] |

[1] Maximum.
[2] For testing at altitudes above 1,219 m (4,000 ft), the specified range is 75°–105°F (23.9°–40.6°C).
[3] For testing which is unrelated to evaporative emission control, the specified range is 8.0–9.2 psi (55.2–63.4 kPa).
[4] For testing at altitudes above 1,219 m (4,000 ft), the specified range is 7.6–8.0 psi (52–55 kPa).
[5] Remainder.

(2)(i) Unleaded gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. Leaded gasoline will not be used in service accumulation.

(ii) The octane rating of the gasoline used shall be no higher than 1.0 Research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number.

(iii) The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a) of this section shall be reported in accordance with § 86.094–21(b)(3).

(b) *Petroleum diesel test fuel.* (1) The petroleum fuels employed for testing diesel vehicles shall be clean and bright, with pour and cloud points adequate for operability. The petroleum diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, dispersant and biocide. Fuels specified for emissions testing are intended to be representative of commercially available in-use fuels.

(2) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emission testing. The grade of petroleum diesel fuel recommended by the engine manufacturer, commercially designated as "Type 2–D" grade diesel, shall be used:

| Item | ASTM test method No. | Type 2–D |
|---|---|---|
| Cetane Number | D613 | 42–50 |
| Distillation range: | | |
| IBP: °F (°C) | D86 | 340–400 |
| | | (171.1–204.4) |
| 10 pct. point: °F (°C) | D86 | 400–460 |
| | | (204.4–237.8) |

| Item | ASTM test method No. | Type 2–D |
|---|---|---|
| 50 pct. point: °F (°C) | D86 | 470–540 (243.3–282.2) |
| 90 pct. point: °F (°C) | D86 | 560–630 (293.3–332.2) |
| EP: °F (°C) | D86 | 610–690 (321.1–365.6) |
| Gravity °API | D287 | 32–37 |
| Total sulfur pct. | D2622 | 0.03–0.05 |
| Hydrocarbon composition: | | |
| Aromatics, min. pct. | D1319 | 27 |
| Paraffins, Naphthenes, Olefins | D1319 | (1) |
| Flashpoint, min. °F (°C) | D93 | 130 (54.4) |
| Viscosity, centistokes | D445 | 2.0–3.2 |

[1] Remainder.

(3) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of petroleum diesel fuel recommended by the engine manufacturer, commercially designated as "Type 2–D" grade diesel fuel, shall be used:

| Item | ASTM test method No. | Type 2–D |
|---|---|---|
| Cetane number | D613 | 38–58 |
| Distillation range: | | |
| 90 pct. point: °F (°C) | D86 | 430–630 (221.1–332.2) |
| Gravity, °API | D287 | 30–42 |
| Total sulfur, pct | D2622 | 0.03–0.05 |
| Flashpoint, min. °F (°C) | D93 | 130 (54.4) |
| Viscosity centistokes | D445 | 1.5–4.5 |

(4) Other petroleum distillate fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability; and

(iv) Written approval from the Administrator of the fuel specifications is provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3) and (b)(4) of this section shall be reported in accordance with § 86.094–21(b)(3).

(c) *Methanol fuel.* (1) Methanol fuel used for exhaust and evaporative emission testing and in service accumulation shall be representative of commercially available methanol fuel and shall consist of at least 50 percent methanol by volume.

(i) Manufacturers shall recommend the methanol fuel to be used for testing and service accumulation.

(ii) The Administrator shall determine the methanol fuel to be used for testing and service accumulation.

(2) Other methanol fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Use of a fuel listed under paragraph (c)(1) of this section would have a detrimental effect on emissions or durability; and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraphs (c)(1) and (c)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(d) *Mixtures of petroleum and methanol fuels for flexible fuel vehicles.* (1) Mixtures of petroleum and methanol fuels used for exhaust and evaporative emission testing and service accumulation for flexible fuel vehicles shall be within the range of fuel mixtures for which the vehicle was designed.

(2) Manufacturer testing and service accumulation may be performed using only those mixtures (mixtures may be different for exhaust testing, evaporative testing and service accumulation) expected to result in the highest emissions, provided:

(i) The fuels which constitute the mixture will be used in customer service; and

(ii) Information, acceptable to the Administrator, is provided by the manufacturer to show that the designated fuel mixtures would result in the highest emissions; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraphs (d)(1) and (d)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(e) *Natural gas fuel.* (1) Natural gas fuel having the following specifications will be used by the Administrator for exhaust and evaporative emission testing of natural gas-fueled vehicles:

| Item | | ASTM test method No. | Value |
|---|---|---|---|
| Methane | min. mole pct. | D1945 | 89.0 |
| Ethane | max. mole pct. | D1945 | 4.5 |
| $C_3$ and higher | max. mole pct. | D1945 | 2.3 |
| $C_6$ and higher | max. mole pct. | D1945 | 0.2 |
| Oxygen | max. mole pct. | D1945 | 0.6 |
| Inert gases: | | | |
| Sum of $CO_2$ and $N_2$ | max. mole pct. | D1945 | 4.0 |
| Odorant [1] | | | |

[1] The natural gas at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability.

(2) Natural gas representative of commercially available natural gas fuel which will be generally available through retail outlets shall be used in service accumulation for natural gas-fueled vehicles.

(3) Other natural gas fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information acceptable to the Administrator is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(4) The specification range of the fuels to be used under paragraphs (e)(1), (e)(2) and (e)(3) of this section shall be reported in accordance with § 86.094–21(b)(3).

(f) *Liquefied petroleum gas fuel.* (1) Liquefied petroleum gas fuel used for exhaust and evaporative emission testing and in service accumulation shall be commercially available liquefied petroleum gas fuel.

(i) Manufacturers shall recommend the liquefied petroleum gas fuel to be used for testing and service accumulation.

(ii) The Administrator shall determine the liquefied petroleum gas fuel to be used for testing and service accumulation.

(2) Other liquefied petroleum gas fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuel to be used under paragraphs (f)(1) and (f)(2) of this section shall be measured in accordance with ASTM D2163–61 and reported in accordance with § 86.094–21(b)(3).

(g) Fuels not meeting the specifications set forth in this section may be used only with the advance approval of the Administrator.

51. Section 86.121–90 of subpart B is amended by revising paragraphs (a)(2) and (b)(3), and adding a new paragraph (d), to read as follows:

**§ 86.121–90 Hydrocarbon analyzer calibration.**

* * * * *

(a) * * *

(2) Optimize on the most common operating range. Introduce into the analyzer a propane (methane as appropriate) in air mixture (methanol in air mixture for methanol-fueled vehicles when optional methanol calibrated HFID procedure is used during the 1994 model year) with a propane (or methane or methanol as appropriate) concentration equal to approximately 90 percent of the most common operating range.

* * * * *

(b) * * *

(3) Calibrate on each normally used operating range with propane in air calibration gases (either methanol or methane in air as appropriate) having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least squares best-fit straight line is two percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds two percent at any point, the best-fit non-linear equation which represents the data to within two percent of each test point shall be used to determine concentration.

* * * * *

(d) *FID response factor to methane.* When the FID analyzer is to be used for the analysis of natural gas-fueled vehicle hydrocarbon samples, the methane response factor of the analyzer shall be established. To determine the total hydrocarbon FID response to methane, known methane in air concentrations traceable to the National Institute of Standards and Technology (NIST) shall be analyzed by the FID. Several methane concentrations shall be analyzed by the FID in the range of concentrations in the exhaust sample. The total hydrocarbon FID response to methane is calculated as follows:

$r_{CH4}$=FIDppm/SAMppm

Where:

(1) $r_{CH4}$=FID response factor to methane.

(2) FIDppm=FID reading in ppmC.

(3) SAMppm=the known methane concentration in ppmC.

52. Section 86.127–96 of subpart B is amended by revising paragraphs (a)(1), (a)(3), (a)(4), (b), (d) introductory text, (d)(2) and (e), to read as follows:

**§ 86.127–96 Test procedures; overview.**

* * * * *

(a) * * *

(1) Gaseous exhaust THC, CO, $NO_X$, $CO_2$ (for petroleum-fueled and gaseous-fueled vehicles), plus $CH_3OH$ and HCHO for methanol-fueled vehicles, plus $CH_4$ (for vehicles subject to the NMHC and OMNMHCE standards).

* * * * *

(3) Evaporative HC (for gasoline-fueled, methanol-fueled and gaseous-fueled vehicles) and $CH_3OH$ (for methanol-fueled vehicles). The evaporative testing portion of the procedure occurs after the exhaust emission test; however, exhaust emissions need not be sampled to complete a test for evaporative emissions.

(4) Fuel spitback (this test is not required for gaseous-fueled vehicles).

(b) The Otto-cycle exhaust emission test is designed to determine gaseous THC, CO, $CO_2$, $CH_4$, $NO_X$, and particulate mass emissions from gasoline-fueled, methanol-fueled and gaseous-fueled Otto-cycle vehicles as well as methanol and formaldehyde from methanol-fueled Otto-cycle vehicles, while simulating an average trip in an urban area of 11 miles (18 kilometers). The test consists of engine start-ups and vehicle operation on a chassis dynamometer through a

specified driving schedule. A proportional part of the diluted exhaust is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler.

* * * * *

(d) The evaporative emission test (gasoline-fueled vehicles, methanol-fueled and gaseous-fueled vehicles) is designed to determine hydrocarbon and methanol evaporative emissions as a consequence of diurnal temperature fluctuation, urban driving and hot soaks following drives. It is associated with a series of events that a vehicle may experience and that may result in hydrocarbon and/or methanol vapor losses. The test procedure is designed to measure:

* * * * *

(2) Running losses resulting from a simulated trip performed on a chassis dynamometer, measured by the enclosure or point-source technique (see § 86.134; this test is not required for gaseous-fueled vehicles); and

* * * * *

(e) Fuel spitback emissions occur when a vehicle's fuel fill neck cannot accommodate dispensing rates. The vehicle test for spitback consists of a short drive followed immediately by a complete refueling event. This test is not required for gaseous-fueled vehicles.

* * * * *

53. Section 86.130–96 of subpart B is amended by revising paragraphs (a) and (b), to read as follows:

**§ 86.130–96 Test sequence; general requirements.**

(a) *(1) Gasoline- and methanol-fueled vehicles.* The test sequence shown in figure B96–10 shows the steps encountered as the test vehicle undergoes the procedures subsequently described to determine conformity with the standards set forth. The full three-diurnal sequence depicted in figure B96–10 tests vehicles for all sources of evaporative emissions. The supplemental two-diurnal test sequence is designed to verify that vehicles sufficiently purge their evaporative canisters during the exhaust emission test. Sections 86.132–96, 86.133–96 and 86.138–96 describe the separate specifications of the supplemental two-diurnal test sequence.

(2) *Gaseous-fueled vehicles.* The test sequence shown in figure B96–10 shows the steps encountered as the test vehicle undergoes the procedures subsequently described to determine conformity with the standards set forth, with the exception that the fuel drain and fill and precondition canister steps are not required for gaseous-fueled vehicles. In addition, the supplemental two-diurnal test and the running loss test are not required.

(b) The vehicle test for fuel spitback during fuel dispensing is conducted as a stand-alone test (see § 86.146). This test is not required for gaseous-fueled vehicles.

* * * * *

54. Section 86.132–90 of subpart B is amended by revising paragraphs (a)(4) introductory text and (a)(4)(ii) introductory text, to read as follows:

**§ 86.132–90 Vehicle preconditioning.**

(a) * * *

(4) The Administrator may also choose to conduct or require the conduct of additional preconditioning to insure that the evaporative emission control system is stabilized in the case of gasoline-fueled and methanol-fueled vehicles, or to insure that the exhaust system is stabilized in the case of petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled diesel vehicles.

* * * * *

(ii) *Petroleum-fueled diesel vehicles, natural gas-fueled and liquefied petroleum gas-fueled vehicles.* The preconditioning shall consist of either of the following:

* * * * *

55. Section 86.132–96 of subpart B is amended by revising paragraphs (b), (e)(2) heading and introductory text and (f), to read as follows:

**§ 86.132–96 Vehicle preconditioning.**

* * * * *

(b)(1) *Gasoline- and Methanol-Fueled Vehicles.* Drain the fuel tank(s) and fill with test fuel, as specified in § 86.113, to the "tank fuel volume" defined in § 86.082–2. The fuel cap(s) shall be installed within one minute after refueling.

(2) *Gaseous-Fueled Vehicles.* Vehicle fuel tanks to be filled with fuel that meets the specifications in § 86.113. Fuel tanks shall be filled to a minimum of 75% of service pressure for natural gas-fueled vehicles or a minimum of 75% of available fill volume for liquefied petroleum gas-fueled vehicles. Prior draining of the fuel tanks is not called for if the fuel in the tanks already meets the specifications in § 86.113.

* * * * *

(e) * * *

(2) *For petroleum-fueled diesel, methanol-fueled diesel, and gaseous-fueled vehicles.* The preconditioning shall consist of either of the following:

* * * * *

(f) (1) *Gasoline- and Methanol-Fueled Vehicles.* Within five minutes of completion of the preconditioning drive, the vehicle shall be driven off the dynamometer and parked. For gasoline- and methanol-fueled vehicles, drain the fuel tank(s) and fill with test fuel, as specified in § 86.113, to the "tank fuel volume" defined in § 86.082–2. The vehicle shall be refueled within one hour of completion of the preconditioning drive. The fuel cap(s) shall be installed within one minute after refueling.

(2) *Gaseous-Fueled Vehicles.* Within five minutes of completion of the preconditioning drive, the vehicle shall be driven off the dynamometer and parked. Vehicle fuel tanks shall be refilled with fuel that meets the specifications in § 86.113. Fuel tanks shall be filled to a minimum of 75% of service pressure for natural gas-fueled vehicles or a minimum of 75% of available fill volume for liquefied petroleum gas-fueled vehicles. Prior draining of the fuel tanks is not called for if the fuel in the tanks already meets the specifications in § 86.113.

* * * * *

56. Section 86.133–96 of subpart B is amended by revising paragraphs (a)(1) and (a)(3), to read as follows:

**§ 86.133–96 Diurnal emission test.**

(a)(1) The diurnal emission test for gasoline-, methanol- and gaseous-fueled vehicles consists of three 24-hour test cycles following the hot soak test. Emissions are measured for each 24-hour cycle, with the highest emission level used to determine compliance with the standards specified in subpart A of this part. The Administrator may truncate a test after any 24-hour cycle without affecting the validity of the collected data. Sampling of emissions from the running loss and hot soak tests is not required as preparation for the diurnal emission test. The diurnal emission test may be conducted as part of either the three- diurnal test sequence or the supplemental two-diurnal test sequence, as described in § 86.130–96.

* * * * *

(3) For the supplemental two-diurnal test sequence, the diurnal emission test outlined in paragraph (p) of this section follows the alternate hot soak test specified in § 86.138–96(k). This test is not required for gaseous-fueled vehicles.

* * * * *

57. Section 86.134–96 of subpart B is amended by revising paragraph (a) to read as follows:

**§ 86.134–96 Running loss test.**

(a) *Overview.* Gasoline- and methanol-fueled vehicles are to be tested for running loss emissions during

simulated high-temperature urban driving; this test is not required for gaseous-fueled vehicles. During operation, tank temperatures are controlled according to a prescribed profile to simulate in-use conditions. If the vehicle is determined to have exceeded the standard before the end of the running loss test, the test may be terminated without invalidating the data. The test can be run either in a sealed enclosure or with the point-source method, as specified in paragraph (g) of this section.

* * * * *

58. Section 86.135–94 of subpart B is amended by revising paragraph (a) to read as follows:

**§ 86.135–94 Dynamometer procedure.**

* * * * *

(a) *Overview.* The dynamometer run consists of two tests, a "cold" start test, after a minimum 12-hour and a maximum 36-hour soak according to the provisions of §§ 86.132 and 86.133, and a "hot" start test following the "cold" start by 10 minutes. Engine startup (with all accessories turned off), operation over the UDDS and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with ambient air in the dilution tunnel as shown in Figure B94–5 and Figure B94–6. A dilution tunnel is not required for testing vehicles waived from the requirement to measure particulates. Six particulate samples are collected on filters for weighing; the first sample plus backup is collected during the first 505 seconds of the cold start test; the second sample plus backup is collected during the remainder of the cold start test (including shutdown); the third sample plus backup is collected during the hot start test. Continuous proportional samples of gaseous emissions are collected for analysis during each test phase. For gasoline-fueled, natural gas-fueled and liquefied petroleum gas-fueled Otto-cycle vehicles, the composite samples collected in bags are analyzed for THC, CO, $CO_2$, $CH_4$ and $NO_X$. For petroleum-fueled diesel-cycle vehicles (optional for natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled diesel-cycle vehicles), THC is sampled and analyzed continuously according to the provisions of § 86.110. Parallel samples of the dilution air are similarly analyzed for THC, CO, $CO_2$, $CH_4$ and $NO_X$. For natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled vehicles, bag samples are collected and analyzed for THC (if not sampled continuously), CO, $CO_2$, $CH_4$ and $NO_X$. For methanol-fueled vehicles, methanol and formaldehyde samples are taken for both exhaust emissions and dilution air (a single dilution air formaldehyde sample, covering the total test period may be collected). Parallel bag samples of dilution air are analyzed for THC, CO, $CO_2$, $CH_4$ and $NO_X$. Methanol and formaldehyde samples may be omitted for 1990 through 1994 model years when a FID calibrated on methanol is used.

* * * * *

59. Section 86.136–90 of subpart B is amended by revising paragraphs (a) heading and introductory text and (b), to read as follows:

**§ 86.136–90 Engine starting and restarting.**

(a) *Otto-cycle vehicles.* Paragraph (a) of this section applies to Otto-cycle vehicles.

* * * * *

(b) *Diesel vehicles.* The engine shall be started according to the manufacturers recommended starting procedures in the owners manual. The initial 20-second idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

* * * * *

60. Section 86.138–96 of subpart B is amended by revising paragraph (a) to read as follows:

**§ 86.138–96 Hot soak test.**

(a) (1) *Gasoline- and methanol-fueled vehicles.* For gasoline- and methanol-fueled vehicles, the hot soak test shall be conducted immediately following the running loss test. However, sampling of emissions from the running loss test is not required as preparation for the hot soak test.

(2) *Gaseous-fueled vehicles.* Since gaseous-fueled vehicles are not required to perform a running loss test, the hot soak test shall be conducted within five minutes of the hot start exhaust test.

* * * * *

61. Section 86.140–94 of subpart B is amended by revising paragraphs (a) introductory text and (b) introductory text, to read as follows:

**§ 86.140–94 Exhaust sample analysis.**

* * * * *

(a) For CO, $CO_2$, $CH_4$, $NO_X$, and for Otto-cycle and methanol-fueled, natural gas-fueled and liquefied petroleum gas-fueled (if non-heated FID option is used) diesel vehicle HC:

* * * * *

(b) For petroleum-fueled, natural gas-fueled and liquefied petroleum gas-fueled (if HFID is used) diesel vehicle HC:

* * * * *

62. Section 86.142–90 of subpart B is amended by revising paragraph (o) introductory text and adding paragraphs (q) and (r), to read as follows:

**§ 86.142–90 Records required.**

* * * * *

(o) Additional records required for diesel vehicles:

* * * * *

(q) *Additional required records for natural gas-fueled vehicles.* Composition, including all carbon containing compounds; e.g. $CO_2$, of the natural gas-fuel used during the test. $C_1$ and $C_2$ compounds shall be individually reported. $C_3$ and heavier hydrocarbons, and $C_6$ and heavier compounds may be reported as a group.

(r) *Additional required records for liquefied petroleum gas-fueled vehicles.* Composition of the liquefied petroleum gas-fuel used during the test. Each hydrocarbon compound present, through $C_4$ compounds, shall be individually reported. $C_5$ and heavier hydrocarbons may be reported as a group.

63. Section 86.143–96 of subpart B is amended by revising paragraphs (a) and (b)(1)(ii)(B), to read as follows:

**§ 86.143–96 Calculations; evaporative emissions.**

(a) The following equations are used to calculate the evaporative emissions from gasoline- and methanol-fueled vehicles, and for gaseous-fueled vehicles.

(b) * * *

(1) * * *

(ii) * * *

(B) $C_{HC}$ = FID hydrocarbon concentration as ppm including FID response to methanol (or methane, as appropriate) in the sample.

* * * * *

64. Section 86.144–94 of subpart B is amended by revising paragraphs (a)(1), (c)(1)(ii), (c)(3)(iv)(C), (c)(5)(ii), (c)(6)(ii), (c)(8)(i) and (c)(8)(ii); redesignating paragraphs (c)(7)(iii) through (c)(7)(xiii) as paragraphs (c)(7)(iv) through (xiv) and revising them; and adding new paragraphs (b)(10), (c)(7)(iii), (c)(8)(vi) and (c)(9), to read as follows:

**§ 86.144–94 Calculations; exhaust emissions.**

* * * * *

(a) * * *

(1) $Y_{WM}$ = Weighted mass emissions of each pollutant, *i.e.*, THC, CO, OMHCE, NMHC, OMNMHCE, $CH_4$, $NO_X$, or $CO_2$, in grams per vehicle mile.

* * * * *

(b) * * *

(10) Methane mass:

$CH_{4MASS}=V_{mix}=Density_{CH4}=(CH_{4conc}/1{,}000{,}000)$

(c) * * *

(1) * * *

(ii) $Density_{HC}$=Density of total hydrocarbon.

(A) *For gasoline-fuel, diesel-fuel and methanol fuel;* $Density_{HC}$=16.33 g/ft³−carbon atom (0.5768 kg/m³−carbon atom), assuming an average carbon to hydrogen ratio of 1:1.85, at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(B) *For natural gas and liquefied petroleum gas-fuel;* $Density_{HC}$=1.1771 (12.011+H/C (1.008)) g/ft³−carbon atom (0.04157(12.011+H/C (1.008))kg/m³−carbon atom), where H/C is the hydrogen to carbon ratio of the hydrocarbon components of the test fuel, at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

* * * * *

(3) * * *

(iv) * * *

(C) $CO_e=[1-(0.01+0.005HCR)CO_{2e}-0.000323R]CO_{em}$ for methanol-fuel or natural gas-fuel or liquefied petroleum gas-fuel, where HCR is hydrogen-to-carbon ratio as measured for the fuel used.

* * * * *

(5) * * *

(ii) $Density_{CH3OH}$=Density of methanol is 37.71 g/ft³-carbon atom (1.332 kg/m³-carbon atom), at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

* * * * *

(6) * * *

(ii) $Density_{HCHO}$=Density of formaldehyde is 35.36 g/ft³- carbon atom (1.249 kg/m³-carbon atom), at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

* * * * *

(7) * * *

(iii)
$$DF=\frac{100\times\frac{x}{x+y/2+3.76(x+y/4)}}{CO_{2e}+\left(NMHC_e+CH_{4e}+CO_e\right)\times10^{-4}}$$

for natural gas-fueled or liquefied petroleum gas-fueled vehicles where fuel composition is $C_xH_y$ as measured for the fuel used.

(iv)(A) $K_H$=Humidity correction factor.

(B) $K_H=1/[1-0.0047(H-75)]$.

(C) *For SI units,* $K_H=1\times[1-0.0329(H\times10.71)]$.

Where:

(v) (A) H=Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

(B) $H=[(43.478)R_a\times P_d]/[P_B-(P_d\times R_a/100)]$.

(C) *For SI units,* $H=[(6.211)R_a\times P_d]/[P_B\times(P_d\times R_a/100)]$.

(vi) $R_a$=Relative humidity of the ambient air, percent.

(vii) $P_d$=Saturated vapor pressure, mm Hg (kPa) at the ambient dry bulb temperature.

(viii) $P_B$=Barometric pressure, mm Hg (kPa).

(ix) (A) $V_{mix}$=Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R (293°K) and 760 mm Hg (101.3 kPa)).

(B) For PDP–CVS, $V_{mix}$ is:

$$V_{mix}=\frac{V_O\times N\times(P_B-P_4)\times528}{760\times T_P}$$

(C) *For SI units,*

$$V_{mix}=\frac{V_o\times N\times(P_B-P_4)\times293}{101.3\times T_p}$$

Where:

(x) $V_o$=Volume of gas pumped by the positive displacement pump, in cubic feet (m³) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

(xi) N=Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

(xii) $P_B$=Barometric pressure, mm Hg (kPa).

(xiii) $P_4$=Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

(xiv) $T_p$=Average temperature of dilute exhaust entering positive displacement pump during test, °R(°K).

(8)(i) $NMHC_{conc}=HC_{conc}-(r_{CH4}\times CH_{4conc})$.

(ii) $Density_{NMHC}$=The density of non-methane hydrocarbon.

(A) *For gasoline-fuel and diesel-fuel;* $Density_{NMHC}$=16.33 g/ft³-carbon atom (0.5768 kg/m³-carbon atom), assuming an average carbon to hydrogen ratio of 1:1.85 at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(B) *For natural gas and liquefied petroleum gas-fuel;* $Density_{NMHC}$=1.1771(12.011+H/C (1.008)) g/ft³-carbon atom (0.04157(12.011+H/C (1.008))kg/m³-carbon atom), where H/C is the hydrogen to carbon ratio of the hydrocarbon components of the test fuel, at 68 °F (20 °C) and 760 mm Hg(101.3 kPa) pressure.

* * * * *

(vi) $r_{CH4}$=HC FID response to methane for natural gas-fueled vehicles as measured in § 86.121(d). For all other vehicles $r_{CH4}$=1.

(9)(i) $CH_{4mass}$=Methane emissions, in grams per test phase.

(ii) $Density_{CH4}$=Density of methane is 18.89 g/ft³-carbon atom (0.6672 kg/m³-carbon atom), at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

* * * * *

65. Section 86.150–98 of subpart B is amended by revising the section heading and adding a new paragraph (d) to read as follows:

**§ 86.150–98 Refueling test procedure; overview.**

* * * * *

(d) *For liquefied petroleum gas-fueled vehicles only.* Refueling test procedures for light-duty vehicles and light-duty trucks operated on liquefied petroleum gas are described in § 86.157.

66. A new section 86.157–98 is added to subpart B to read as follows:

**§ 86.157–98 Refueling test procedures for liquefied petroleum gas-fueled vehicles.**

(a) *Equipment.* (1) The sampling and analytical system shall meet the specifications in § 86.107–98(a) through (i).

(2) The refueling equipment nozzle specifications shall meet the requirements described in § 80.32.

(b) *General requirements.* (1) The refueling test procedure for light-duty liquefied petroleum gas-fueled vehicles and trucks starts with the preconditioning of the vehicle followed by a refueling emissions measurement. The test is conducted by following paragraphs (c) through (f) of this section in order.

(2) Ambient temperature levels encountered by the test vehicle throughout the test sequence shall not be less than 68°F (20°C) nor more than 86°F (30°C).

(3) The vehicle shall be approximately level during all phases of the test

sequence to prevent abnormal fuel distribution.

(c) *Vehicle preconditioning.* (1) The vehicle fuel tanks are to be filled with fuel that meets the specifications in § 86.113. Fuel tanks shall be filled to 10 percent of nominal fuel tank capacity, determined to the nearest one-tenth of a U.S. gallon (0.38 liter).

(2) The vehicle shall be parked (without starting the engine) within the temperature range specified in paragraph (a)(2) of this section for a minimum of one hour and a maximum of six hours.

(d) *Measurement procedure.* (1) The steps prior to the actual refueling event described in § 86.154–98(b) through (e)(5) shall be performed.

(2) Within one minute of obtaining the initial FID (or HFID) reading, the dispensed fuel nozzle shall be attached to the vehicle fuel receptacle, and the refueling operation shall be started. If the vehicle is equipped with a fixed liquid level gauge or other gauge or valve which could be opened to release fuel or fuel vapor during refueling, and has not received an exemption as outlined in §§ 86.098–28(h), 86.001–28(h) or 86.004–28(h), the fixed level gauge or other gauges or valves shall be opened after the dispensing nozzle is attached, but prior to the start of the refueling operation. The dispensed fuel must be at a temperature stabilized to approximately the same temperature as the vehicle was in paragraph (c)(2) of this section. The dispensing rate must be typical of in-use dispensing rates for liquefied petroleum gas into light-duty vehicles and trucks.

(3) The fuel flow shall continue until the amount of fuel dispensed is at least 85 percent of nominal fuel tank capacity, determined to the nearest one-tenth of a U.S. gallon (0.38 liter).

(4) Following the fuel shut-off the fixed liquid level gauge or other gauges or valves, if open, shall be closed and the nozzle disconnected.

(5) The final reading of the evaporative enclosure FID (or HFID) analyzer shall be taken 60 ±5 seconds following the disconnect of the refueling nozzle. This is the final hydrocarbon concentration, $C_{HCf}$, required in § 86.143. The elapsed time, in minutes, between the initial and final FID (or HFID) readings shall be recorded.

(6) For vehicles equipped with more than one fuel tank, the procedures described in this section shall be performed for each fuel tank.

(e) *Records required.* (1) Test: test number, system or device tested (brief description), date and time of day instrument operated, operator, enclosure barometric pressure and temperature, recorder charts (identify zero, span, and enclosure gas traces), fuel dispensing rate(s) and dispensed fuel volume.

(2) Vehicle: ID number, manufacturer, model year, engine family, evaporative/refueling emission family, fuel tank(s) capacity, basic fuel system description and odometer reading.

(3) All pertinent instrument information including nozzle and fuel delivery system description. As an alternative, a reference to a vehicle test cell number may be used, with advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(4) All additional information necessary for the calculations specified in paragraph (f) of this section.

(f) *Calculations.* (1) The calculation of the net hydrocarbon mass change in the enclosure is used to determine refueling mass emissions. The mass is calculated from initial and final hydrocarbon concentrations in ppm carbon, initial and final enclosure ambient temperatures, initial and final barometric pressures and net volume using the equations of § 86.143. For vehicles with multiple tanks, the results for each tank shall be calculated and then summed to determine overall refueling emissions.

(2) The final results for comparison with the refueling control emission standard shall be computed by dividing the total refueling mass emissions by the total gallons of fuel dispensed in the refueling test (see paragraph (d)(3) of this section).

(3) The results of all emission tests shall be rounded, in accordance with ASTM E 29–67 to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure. This procedure has been incorporated by reference (see § 86.1).

67. A new section 86.401–97 is added to subpart E, to read as follows:

**§ 86.401–97 General applicability.**

(a) This subpart applies to 1978 and later model year, new, gasoline-fueled motorcycles built after 31 December, 1977, and to 1990 and later model year, new, methanol-fueled motorcycles built after 31 December, 1989 and to 1997 and later model year, new, natural gas-fueled and liquefied petroleum gas-fueled motorcycles built after 31 December, 1996.

(b) Motorcycles with engine displacements less than 50 cc (3.1 cu in) are excluded from the requirements of this subpart.

(c) Motorcycles are excluded from the requirements of this subpart, if with an 80 kg (176 lb) driver, it cannot:

(1) Start from a dead stop using only the engine; or

(2) Exceed a maximum speed of 40 km/h (25 mph) on level paved surfaces.

68. Section 86.410–90 of subpart E is amended by revising paragraph (a)(1) introductory text, to read as follows:

**§ 86.410–90 Emission standards for 1990 and later model year motorcycles.**

(a)(1) Exhaust emissions from 1990 and later model year gasoline-fueled, natural gas-fueled and liquefied petroleum gas-fueled motorcycles shall not exceed (compliance with these standards is optional prior to the 1997 model year for natural gas-fueled and liquefied petroleum gas-fueled motorcycles):

* * * * *

69. Section 86.509–90 of subpart F is amended by revising paragraph (c)(4), to read as follows:

**§ 86.509–90 Exhaust gas sampling system.**

* * * * *

(c) * * *

(4) The location of the dilution air inlet shall be placed so as to use test-cell air for dilution air and the flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system. Control of water condensation with methanol-fueled vehicles is critical. Additional care may also be required to eliminate water condensation when testing natural gas and liquefied petroleum gas-fueled vehicles. Procedures for determining CVS flow rates are detailed in "Calculation of Emissions And Fuel Economy When Using Alternate Fuels," EPA 460/3–83–009.

* * * * *

70. A new section 86.513–94 is added to subpart F to read as follows:

**§ 86.513–94 Fuel and engine lubricant specifications.**

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing of gasoline-fueled motorcycles. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer for emission testing except that the octane specifications do not apply.

| Item | ASTM | Value |
|---|---|---|
| Octane, research, minimum | D2699 | 96 |
| Lead (organic): | | |
| g/liter (g/U.S. gal.) | D3237 | [1]0.013 |
| | | [1](0.050) |
| Distillation range: | | |
| IBP: °C (°F) | D86 | 23.9–35 |
| | | (75–95) |
| 10 pct. point: °C (°F) | D86 | 48.9–57.2 |
| | | (120–135) |
| 50 pct. point: °C (°F) | D86 | 93.3–110 |
| | | (200–230) |
| 90 pct. point: °C (°F) | D86 | 148.9–162.8 |
| | | (300–325) |
| EP: max. °C (°F) | D86 | 212.8 |
| | | (415) |
| Sulfur, max. wt. % | D1266 | 0.10 |
| Phosphorus: max. g/liter (g/U.S. gal.) | D3231 | 0.0013 |
| | | (0.005) |
| RVP kPa (psi) | D323 | 55.2–63.4 |
| | | (8.0–9.2) |
| Hydrocarbon composition: | | |
| Olefins, max., % | D1319 | 10 |
| Aromatics, max., % | D1319 | 35 |
| Saturates | D1319 | Remainder |

[1] Maximum.

(2) Unleaded gasoline and engine lubricants representative of commercial fuels and engine lubricants which will be generally available through retail outlets shall be used in service accumulation.

(3) The octane rating of the gasoline used shall be no higher than 4.0 Research octane numbers above the minimum recommended by the manufacturer.

(4) The Reid Vapor Pressure of the gasoline used shall be characteristic of commercial gasoline fuel during the season in which the service accumulation takes place.

(b) *Methanol fuel.* (1) Methanol fuel used for exhaust and evaporative emission testing and in service accumulation of methanol-fueled motorcycles shall be representative of commercially available methanol fuel and shall consist of at least 50 percent methanol by volume.

(2) Manufacturers shall recommend the methanol fuel to be used for testing and service accumulation in accordance with paragraph (b)(1) of this section.

(3) The Administrator shall determine the methanol fuel to be used for testing and service accumulation.

(4) Other methanol fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Use of a fuel listed under paragraphs (b)(1), (b)(2) or (b)(3) of this section would have a detrimental effect on emissions or durability; and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(c) *Mixtures of petroleum and methanol fuels for flexible fuel motorcycles.* (1) Mixtures of petroleum and methanol fuels used for exhaust and evaporative emission testing and service accumulation for flexible fuel motorcycles shall be within the range of fuel mixtures for which the motorcycle was designed.

(2) Manufacturer testing and service accumulation may be performed using only those mixtures (mixtures may be different for exhaust testing, evaporative testing and service accumulation) expected to result in the highest emissions, provided:

(i) The fuels which constitute the mixture will be used in customer service;

(ii) Information, acceptable to the Administrator, is provided by the manufacturer to show that the designated fuel mixtures would result in the highest emissions; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(d) *Natural gas-fuel.* (1) Natural gas-fuel having the following specifications will be used by the Administrator for exhaust and evaporative emission testing of natural gas-fueled motorcycles. Natural gas-fuel having the following specifications or substantially similar specifications approved by the Administrator, shall be used by the manufacturer for emission testing.

NATURAL GAS CERTIFICATION FUEL SPECIFICATIONS

| Item | | ASTM test method No. | Value |
|---|---|---|---|
| Methane | min. mole pct. | D1945 | 89.0 |
| Ethane | max. mole pct. | D1945 | 4.5 |
| $C_3$ and higher | max. mole pct. | D1945 | 2.3 |
| $C_6$ and higher | max. mole pct. | D1945 | 0.2 |
| Oxygen | max. mole pct. | D1945 | 0.6 |
| Inert gases: | | | |
| Sum of $CO_2$ and $N_2$ | max. mole pct. | D1945 | 4.0 |

NATURAL GAS CERTIFICATION FUEL SPECIFICATIONS—Continued

| Item | | ASTM test method No. | Value |
|---|---|---|---|
| Odorant [1] | | | |

[1] The natural gas at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability.

(2) Natural gas-fuel and engine lubricants representative of commercial fuels and engine lubricants which will be generally available through retail outlets shall be used in service accumulation.

(3) Other natural gas-fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service;

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(e) *Liquefied petroleum gas-fuel.* (1) Liquefied petroleum gas-fuel used for exhaust and evaporative emission testing and in service accumulation of liquefied petroleum gas-fueled motorcycles shall be commercially available liquefied petroleum gas-fuel.

(2) Manufacturers shall recommend the liquefied petroleum gas-fuel to be used for testing and service accumulation in accordance with paragraph (e)(1) of this section.

(3) The Administrator shall determine the liquefied petroleum gas-fuel to be used for testing and service accumulation.

(4) Other liquefied petroleum gas-fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(f) *Lubricants.* (1) If the manufacturer specifies several lubricants to be used by the ultimate purchaser, the Administrator will select one to be used during service accumulation.

(2) The same lubricant(s) shall be used for both service accumulation and emission testing.

(g) The specification range of the fuels and of the engine lubricants to be used under paragraphs (a), (b), (c), (d) and (e) of this section shall be reported in accordance with § 86.416.

(h) Written approval from the Administrator of the fuel and lubricant specifications must be provided prior to the start of testing.

71. Section 86.521–90 of subpart F is amended by revising paragraphs (b) introductory text, (b)(2) and (c)(3), and adding a new paragraph (e), to read as follows:

**§ 86.521–90 Hydrocarbon analyzer calibration.**

* * * * *

(b) *Initial and periodic optimization of detector response.* Prior to its introduction into service and at least annually thereafter, the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Analyzers used with petroleum fuels and liquefied petroleum gas-fuel shall be optimized using propane. Analyzers used with natural gas-fuel for measurement of hydrocarbons shall be optimized using methane. If a single analyzer is used for all measurements, it shall be optimized using propane and its response factor for methane shall be determined and accounted for in measurements of total hydrocarbons from natural gas-fuel. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

* * * * *

(2) Optimize on the most common operating range. Introduce into the analyzer a propane (methane as appropriate) in air mixture (methanol in air mixture for methanol-fueled vehicles when optional methanol calibrated FID procedure is used during the 1990 through 1994 model year) with a propane (or methane or methanol as appropriate) concentration equal to approximately 90 percent of the most common operating range.

* * * * *

(c) * * *

(3) Calibrate on each normally used operating range with propane in air (or methanol or methane in air as appropriate) calibration gases having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least squares best-fit straight line is two percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds two percent at any point, the best-fit non-linear equation which represents the data to within two percent of each test point shall be used to determine concentration.

* * * * *

(e) *FID response factor to methane.* When the FID analyzer is to be used for the analysis of natural gas-fueled motorcycle hydrocarbon samples, the methane response factor of the analyzer shall be established. To determine the total hydrocarbon FID response to methane, known methane in air concentrations traceable to National Institute of Standards and Technology (NIST) shall be analyzed by the FID. Several methane concentrations shall be analyzed by the FID in the range of concentrations in the exhaust sample. The total hydrocarbon FID response to methane is calculated as follows:

$r_{CH4}$ = FIDppm/SAMppm

Where:

(1) $r_{CH4}$ = FID response factor to methane.

(2) FIDppm = FID reading in ppmC.

(3) SAMppm = the known methane concentration in ppmC.

72. Section 86.527–90 of subpart F is amended by revising paragraphs (a), (c) and (d), to read as follows:

**§ 86.527–90 Test procedures, overview.**

(a) The procedures described in this and subsequent sections are used to determine the conformity of motorcycles with the standards set forth in subpart E of this part.

* * * * *

(c) The exhaust emission test is designed to determine hydrocarbon (gasoline-fueled, natural gas-fueled and liquefied petroleum gas-fueled motorcycles), methanol, formaldehyde, and hydrocarbon (methanol-fueled motorcycles), carbon monoxide and oxides of nitrogen mass emissions while simulating an average trip in an urban area. The test consists of engine startups and motorcycle operation on a chassis dynamometer, through a specified driving schedule. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler.

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motorcycle shall be functioning during all procedures in this Subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with subpart E of this part.

73. Section 86.540–90 of subpart F is amended by revising paragraph (a) introductory text to read as follows:

**§ 86.540–90 Exhaust sample analysis.**

* * * * *

(a) For CO, $CO_2$, gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled motorcycle HC and, if appropriate, $NO_X$:

* * * * *

74. Section 86.542–90 of subpart F is amended by adding paragraphs (q) and (r), to read as follows:

**§ 86.542–90 Records required.**

* * * * *

(q) *Additional required records for natural gas-fueled vehicles.* Composition, including all carbon containing compounds; e.g. $CO_2$, of the natural gas-fuel used during the test. $C_1$ and $C_2$ compounds shall be individually reported. $C_3$ and heavier hydrocarbons and $C_6$ and heavier compounds may be reported as a group.

(r) *Additional required records for liquefied petroleum gas-fueled vehicles.* Composition of the liquefied petroleum gas-fuel used during the test. Each hydrocarbon compound present, through $C_4$ compounds, shall be individually reported. $C_5$ and heavier hydrocarbons may be reported as a group.

75. Section 86.544–90 of subpart F is amended by revising paragraphs (c)(1)(ii), (c)(1)(v), (c)(1)(ix), (c)(3)(iv)(C) and (c)(7)(ii), to read as follows:

**§ 86.544–90 Calculations; exhaust emissions.**

* * * * *

(c) * * *

(1) * * *

(ii) $Density_{HC}$=Density of HC in exhaust gas.

(A) *For gasoline-fuel;* $Density_{HC}$=576.8 g/m³-carbon atom (16.33 g/ft³-carbon atom), assuming an average carbon to hydrogen ratio of 1:1.85, at 20 °C (68 °F) and 101.3 kPa (760 mm Hg) pressure.

(B) *For natural gas and liquefied petroleum gas-fuel;* $Density_{HC}$=41.57(12.011+H/C(1.008)) g/m³-carbon atom (1.1771(12.011+H/C(1.008)) g/ft³-carbon atom) where H/C is the hydrogen to carbon ratio of the hydrocarbon components of test fuel, at 20 °C (68 °F) and 101.3 kPa (760mm Hg) pressure.

* * * * *

(v) FID $HC_e$=Concentration of hydrocarbon (plus methanol if methanol-fueled motorcycle is tested) in dilute exhaust as measured by the FID ppm carbon equivalent.

* * * * *

(ix) FID $HC_d$=Concentration of hydrocarbon (plus methanol if methanol-fueled motorcycle is tested) in dilution air as measured by the FID, ppm carbon equivalent.

* * * * *

(3) * * *

(iv) * * *

(C) $CO_e=[1 - (0.01+0.005HCR)\ CO_{2e} - 0.000323R]CO_{em}$ for methanol-fueled, natural gas-fueled or liquefied petroleum gas-fueled motorcycles, where HCR is hydrogen to carbon ratio as measured for the fuel used.

* * * * *

(7) * * *

For methanol-fueled, natural gas-fueled or liquefied petroleum gas-fueled motorcycles where fuel composition is $C_xH_yO_z$ as measured for the fuel used (for natural gas-fuel and liquefied petroleum gas-fuel, Z=0).

* * * * *

(ii)
$$DF = \frac{100 \times \frac{x}{x + y/2 + 3.76(x + y/4 - z/2)}}{CO_{2e} + (HC_e + CO_e + C_{CH3OHe}) \times 10^{-4}}$$

76. Section 86.708–94 of subpart H is amended by revising Tables H94–3, H94–4, H94–6 and H94–7 following paragraph (a)(1)(i)(A)(*3*) to read as follows:

**§ 86.708–94 In-use emission standards for 1994 and later model year light duty vehicles.**

* * * * *

(a)(1) * * *

(i) * * *

(A) * * *

(*3*) * * *

* * * * *

TABLE H94–3.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND $NO_X$

| Fuel | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ |
|---|---|---|---|---|---|---|---|
| Gasoline | Tier 0 | 0.41 | ..... | ..... | ..... | 3.4 | 1.0 |
| Gasoline | Tier 1, | 0.41 | 0.32 | ..... | ..... | 3.4 | 0.4 |
| Gasoline | Tier 1 | 0.41 | 0.25 | ..... | ..... | 3.4 | 0.4 |
| Diesel | Tier 0 | 0.41 | ..... | ..... | ..... | 3.4 | 1.0 |
| Diesel | Tier 1, | 0.41 | 0.32 | ..... | ..... | 3.4 | 1.0 |
| Diesel | Tier 1 | 0.41 | 0.25 | ..... | ..... | 3.4 | 1.0 |
| Methanol | Tier 0 | ..... | ..... | 0.41 | ..... | 3.4 | 1.0 |
| Methanol | Tier 1, | ..... | ..... | 0.41 | 0.32 | 3.4 | 0.4 |
| Methanol | Tier 1 | ..... | ..... | 0.41 | 0.25 | 3.4 | 0.4 |
| Natural Gas | Tier 0 | ..... | 0.34 | ..... | ..... | 3.4 | 1.0 |
| Natural Gas | Tier 1, | ..... | 0.32 | ..... | ..... | 3.4 | 0.4 |
| Natural Gas | Tier 1 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 |
| LPG | Tier 0 | 0.41 | ..... | ..... | ..... | 3.4 | 1.0 |
| LPG | Tier 1, | 0.41 | 0.32 | ..... | ..... | 3.4 | 0.4 |
| LPG | Tier 1 | 0.41 | 0.25 | ..... | ..... | 3.4 | 0.4 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94–4.—FULL USEFUL LIFE [1] STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND $NO_x$

| Fuel | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ |
|---|---|---|---|---|---|---|---|
| Gasoline | Tier 0 | ..... | ..... | ..... | ..... | ..... | ..... |
| Gasoline | Tier 1 | ..... | 0.31 | ..... | ..... | 4.2 | 0.60 |
| Diesel | Tier 0 | ..... | ..... | ..... | ..... | ..... | ..... |
| Diesel | Tier 1 | ..... | 0.31 | ..... | ..... | 4.2 | 1.25 |
| Methanol | Tier 0 | ..... | ..... | ..... | ..... | ..... | ..... |
| Methanol | Tier 1 | ..... | ..... | ..... | 0.31 | 4.2 | 0.60 |
| Natural Gas | Tier 0 | ..... | ..... | ..... | ..... | ..... | ..... |
| Natural Gas | Tier 1 | ..... | 0.31 | ..... | ..... | 4.2 | 0.60 |
| LPG | Tier 0 | ..... | ..... | ..... | ..... | ..... | ..... |
| LPG | Tier 1 | ..... | 0.31 | ..... | ..... | 4.2 | 0.60 |

[1] The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

* * * * *

TABLE H94–6.—INTERMEDIATE USEFUL LIFE [1] STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR PM

| Fuel | Standards | PM |
|---|---|---|
| Gasoline | Tier 0 | ..... |
| Gasoline | Tier 1 | 0.08 |
| Diesel | Tier 0 | 0.20 |
| Diesel | Tier 1 | 0.08 |
| Methanol | Tier 0 | [2] 0.20 |
| Methanol | Tier 1 | 10.08 |
| Natural Gas | Tier 0 | [2] 0.20 |
| Natural Gas | Tier 1 | 0.08 |
| LPG | Tier 0 | [2] 0.20 |
| LPG | Tier 1 | 0.08 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.
[2] Applicable only to diesel-cycle vehicles.

TABLE H94–7.—FULL USEFUL LIFE [1] STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR PM

| Fuel | Standards | PM |
|---|---|---|
| Gasoline | Tier 0 | ..... |
| Gasoline | Tier 1 | 0.10 |
| Diesel | Tier 0 | ..... |
| Diesel | Tier 1 | 0.10 |
| Methanol | Tier 0 | ..... |
| Methanol | Tier 1 | 0.10 |
| Natural Gas | Tier 0 | ..... |
| Natural Gas | Tier 1 | 0.10 |
| LPG | Tier 0 | ..... |
| LPG | Tier 1 | 0.10 |

[1] The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

* * * * *

77. Section 86.708–98 of subpart H is amended by revising Tables H98–1 and H98–2 following paragraph (a)(1)(i) to read as follows:

**§ 86.708–98 In-use emission standards for 1998 and later model year light-duty vehicles.**

* * * * *

(a)(1)(i) * * *

TABLE H98–1.—INTERMEDIATE USEFUL LIFE [1] STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES

| Fuel | THC | NMHC | OMHCE | OMNMHCE | CO | NOx | PM |
|---|---|---|---|---|---|---|---|
| Gasoline | 0.41 | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| Diesel | 0.41 | 0.25 | ..... | ..... | 3.4 | 1.0 | 0.08 |
| Methanol | ..... | ..... | 0.41 | 0.25 | 3.4 | 0.4 | 0.08 |
| Natural Gas | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| LPG | 0.41 | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H98–2.—FULL USEFUL LIFE [1] STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES

| Fuel | THC | NMHC | OMHCE | OMNMHCE | CO | NOx | PM |
|---|---|---|---|---|---|---|---|
| Gasoline | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| Diesel | ..... | 0.31 | ..... | ..... | 4.2 | 1.25 | 0.10 |
| Methanol | ..... | ..... | ..... | 0.31 | 4.2 | 0.6 | 0.10 |
| Natural Gas | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| LPG | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |

[1] The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

* * * * *

78. Section 86.709–94 of subpart H is amended by revising Tables H94–9, H94–10, H94–12 and H94–13 following paragraph (a)(1)(i)(A)(*3*), and Tables H94–15, H94–16 and H94–18 following paragraph (a)(1)(ii)(A)(*2*), to read as follows:

**§ 86.709–94 In-use emission standards for 1994 and later model year light-duty trucks.**

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(a)(1) * * *

(i) * * *

(A) * * *

(*3*) * * *

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TABLE H94–9.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_x$

| Fuel | LVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | NOx |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Gasoline | 0–3750 | Tier 1 | 0.80 | 0.32 | | | 5.2 | 0.4 |
| Gasoline | 0–3750 | Tier 1 | 0.80 | 0.25 | | | 3.4 | 0.4 |
| Gasoline | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Gasoline | 3751–5750 | Tier 1$_1$ | 0.80 | 0.41 | | | 6.7 | 0.7 |
| Gasoline | 3751–5750 | Tier 1 | 0.80 | 0.32 | | | 4.4 | 0.7 |
| Diesel | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Diesel | 0–3750 | Tier 1$_1$ | 0.80 | 0.32 | | | 5.2 | 1.2 |
| Diesel | 0–3750 | Tier 1 | 0.80 | 0.25 | | | 3.4 | 1.0 |
| Diesel | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Diesel | 3751–5750 | Tier 1$_1$ | 0.80 | 0.41 | | | 6.7 | 1.7 |
| Diesel | 3751–5750 | Tier 1 | 0.80 | 0.32 | | | 4.4 | 0.97 |
| Methanol | 0–3750 | Tier 0 | | | 0.80 | | 10 | 1.2 |
| Methanol | 0–3750 | Tier 1$_1$ | | | 0.80 | 0.32 | 5.2 | 0.4 |
| Methanol | 0–3750 | Tier 1 | | | 0.80 | 0.25 | 3.4 | 0.4 |
| Methanol | 3751–5750 | Tier 0 | | | 0.80 | | 10 | 1.7 |
| Methanol | 3751–5750 | Tier 1$_1$ | | | 0.80 | 0.41 | 6.7 | 0.7 |
| Methanol | 3751–5750 | Tier 1 | | | 0.80 | 0.32 | 4.4 | 0.7 |
| Natural Gas | 0–3750 | Tier 0 | | 0.67 | | | 10 | 1.2 |
| Natural Gas | 0–3750 | Tier 1$_1$ | | 0.32 | | | 5.2 | 0.4 |
| Natural Gas | 0–3750 | Tier 1 | | 0.25 | | | 3.4 | 0.4 |
| Natural Gas | 3751–5750 | Tier 0 | | 0.67 | | | 10 | 1.7 |
| Natural Gas | 3751–5750 | Tier 1$_1$ | | 0.41 | | | 6.7 | 0.7 |
| Natural Gas | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 |
| LPG | 0–3750 | Tier 0 | 0.80 | | | 10 | 1.2 | |
| LPG | 0–3750 | Tier 1$_1$ | 0.80 | 0.32 | | | 5.2 | 0.4 |
| LPG | 0–3750 | Tier 1 | 0.80 | 0.25 | | | 3.4 | 0.4 |
| LPG | 3751–5750 | Tier 0 | 0.80 | | | 10 | 1.7 | |
| LPG | 3751–5750 | Tier 1$_1$ | 0.80 | 0.41 | | 6.7 | 0.7 | |
| LPG | 3751–5750 | Tier 1 | 0.80 | 0.32 | | | 4.4 | 0.7 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94–10.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_x$

| Fuel | LVW (lbs) | Standards | THC[2] | NMHC[1] | OMHCE[2] | OMNMHCE[1] | CO[1] | $NO_x$[1] |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Gasoline | 0–3750 | Tier 1 | 0.80 | 0.31 | | | 4.2 | 0.60 |
| Gasoline | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Gasoline | 3751–5750 | Tier 1 | 0.80 | 0.40 | | | 5.5 | 0.97 |
| Diesel | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Diesel | 0–3750 | Tier 1 | 0.80 | 0.31 | | | 4.2 | 1.25 |
| Diesel | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Diesel | 3751–5750 | Tier 1 | 0.80 | 0.40 | | | 5.5 | 0.97 |
| Methanol | 0–3750 | Tier 0 | | | 0.80 | | 10 | 1.2 |
| Methanol | 0–3750 | Tier 1 | | | 0.80 | 0.31 | 4.2 | 0.60 |
| Methanol | 3751–5750 | Tier 0 | | | 0.80 | | 10 | 1.7 |
| Methanol | 3751–5750 | Tier 1 | | | 0.80 | 0.40 | 5.5 | 0.97 |
| Natural Gas | 0–3750 | Tier 0 | 2.93 | 0.67 | | | 10 | 1.2 |
| Natural Gas | 0–3750 | Tier 1 | 2.93 | 0.31 | | | 4.2 | 0.60 |
| Natural Gas | 3751–5750 | Tier 0 | 2.93 | 0.67 | | | 10 | 1.7 |
| Natural Gas | 3751–5750 | Tier 1 | 2.93 | 0.40 | | | 5.5 | 0.97 |
| LPG | 0–3750 | Tier 0 | 0.80 | | | | 10 | 1.2 |
| LPG | 0–3750 | Tier 1 | 0.80 | 0.31 | | | 4.2 | 0.60 |
| LPG | 3751–5750 | Tier 0 | 0.80 | | | | 10 | 1.7 |
| LPG | 3751–5750 | Tier 1 | 0.08 | 0.40 | | | 5.5 | 0.97 |

[1] The applicable useful life is 10 years or 100,000 miles, which ever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.
[2] The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

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TABLE H94–12.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

| Fuel | LVW (lbs) | Standards | PM |
|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | |

TABLE H94–12.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM—Continued

| Fuel | LVW (lbs) | Standards | PM |
|---|---|---|---|
| Gasoline | 0–3750 | Tier 1 | 0.08 |
| Gasoline | 3751–5750 | Tier 0 | |
| Gasoline | 3751–5750 | Tier 1 | 0.08 |
| Diesel | 0–3750 | Tier 0 | 0.26 |
| Diesel | 0–3750 | Tier 1 | 0.08 |
| Diesel | 3751–5750 | Tier 0 | 0.13 |
| Diesel | 3751–5750 | Tier 1 | 0.08 |
| Methanol | 0–3750 | Tier 0 | |
| Methanol | 0–3750 | Tier 1 | 0.08 |
| Methanol | 3751–5750 | Tier 0 | |
| Methanol | 3751–5750 | Tier 1 | 0.08 |
| Natural Gas | 0–3750 | Tier 0 | [2]0.26 |
| Natural Gas | 0–3750 | Tier 1 | 0.08 |
| Natural Gas | 3751–5750 | Tier 0 | [2]0.13 |
| Natural Gas | 3751–5750 | Tier 1 | 0.08 |
| LPG | 0–3750 | Tier 0 | [2]0.26 |
| LPG | 0–3750 | Tier 1 | 0.08 |
| LPG | 3751–5750 | Tier 0 | [2]0.13 |
| LPG | 3751–5750 | Tier 1 | 0.08 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.
[2] Applicable only to diesel-cycle vehicles.

TABLE H94–13.—FULL USEFUL LIFE[1] STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

| Fuel | LVW (lbs) | Standards | PM |
|---|---|---|---|
| Gasoline | 0–3750 | Tier 0 | |
| Gasoline | 0–3750 | Tier 1 | 0.10 |
| Gasoline | 3751–5750 | Tier 0 | |
| Gasoline | 3751–5750 | Tier 1 | 0.10 |
| Diesel | 0–3750 | Tier 0 | 0.26 |
| Diesel | 0–3750 | Tier 1 | 0.10 |
| Diesel | 3751–5750 | Tier 0 | 0.13 |
| Diesel | 3751–5750 | Tier 1 | 0.10 |
| Methanol | 0–3750 | Tier 0 | |
| Methanol | 0–3750 | Tier 1 | 0.10 |
| Methanol | 3751–5750 | Tier 0 | |
| Methanol | 3751–5750 | Tier 1 | 0.10 |
| Natural Gas | 0–3750 | Tier 0 | [2]0.26 |
| Natural Gas | 0–3750 | Tier 1 | 0.10 |
| Natural Gas | 3751–5750 | Tier 0 | [2]0.13 |
| Natural Gas | 3751–5750 | Tier 1 | 0.10 |
| LPG | 0–3750 | Tier 0 | [2]0.26 |
| LPG | 0–3750 | Tier 1 | 0.10 |
| LPG | 3751–5750 | Tier 0 | [2]0.13 |
| LPG | 3751–5750 | Tier 1 | 0.10 |

[1] The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.
[2] Applicable only to diesel-cycle vehicles.

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(ii) * * *

(A) * * *

(*2*) * * *

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TABLE H94–15.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI)I FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_x$

| Fuel | LVW (lbs) | ALVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ |
|---|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Gasoline | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Gasoline | | 3751–5750 | Tier $1_I$ | 0.80 | 0.40 | | | 5.5 | 0.88 |
| Gasoline | | 3751–5750 | Tier 1 | 0.80 | 0.32 | | | 4.4 | 0.7 |
| Gasoline | | > 5750 | Tier $1_I$ | 0.80 | 0.49 | | | 6.2 | 1.38 |
| Gasoline | | > 5750 | Tier 1 | 0.80 | 0.39 | | | 5.0 | 1.1 |
| Diesel | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Diesel | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Diesel | 0–3750 | 3751–5750 | Tier $1_I$ | 0.80 | 0.40 | | | 5.5 | 1.2 |

TABLE H94–15.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI)I FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_X$—Continued

| Fuel | LVW (lbs) | ALVW (lbs) | Standards | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_X$ |
|---|---|---|---|---|---|---|---|---|---|
| Diesel | > 3750 | 3751–5750 | Tier $1_I$ | 0.80 | 0.40 | | | 5.5 | 1.7 |
| Diesel | | 3751–5750 | Tier 1 | 0.80 | 0.32 | | | 4.4 | 0.98 |
| Diesel | 0–3750 | > 5750 | Tier $1_I$ | 0.80 | 0.49 | | | 6.2 | 1.2 |
| Diesel | > 3750 | > 5750 | Tier $1_I$ | 0.80 | 0.49 | | | 6.2 | 1.7 |
| Diesel | | > 5750 | Tier 1 | 0.80 | 0.39 | | | 5.0 | 1.53 |
| Methanol | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Methanol | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Methanol | | 3751–5750 | Tier $1_I$ | | | 0.80 | 0.40 | 5.5 | 0.88 |
| Methanol | | 3751–5750 | Tier 1 | | | 0.80 | 0.32 | 4.4 | 0.7 |
| Methanol | | > 5750 | Tier $1_I$ | | | 0.80 | 0.49 | 6.2 | 1.38 |
| Methanol | | > 5750 | Tier 1 | | | 0.80 | 0.39 | 5.0 | 1.1 |
| Natural Gas | 0–3570 | | Tier 0 | | 0.67 | | | 10 | 1.2 |
| Natural Gas | > 3750 | | Tier 0 | | 0.67 | | | 10 | 1.7 |
| Natural Gas | | 3751–5750 | Tier $1_I$ | | 0.40 | | | 5.5 | 0.88 |
| Natural Gas | | 3751–5750 | Tier 1 | | 0.32 | | | 4.4 | 0.7 |
| Natural Gas | | > 5750 | Tier $1_I$ | | 0.49 | | | 6.2 | 1.38 |
| Natural Gas | | > 5750 | Tier 1 | | 0.39 | | | 5.0 | 1.1 |
| LPG | 0–3570 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| LPG | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| LPG | | 3751–5750 | Tier $1_I$ | 0.80 | 0.40 | | | 5.5 | 0.88 |
| LPG | | 3751–5750 | Tier 1 | 0.80 | 0.32 | | | 4.4 | 0.7 |
| LPG | | > 5750 | Tier $1_I$ | 0.80 | 0.49 | | | 6.2 | 1.38 |
| LPG | | > 5750 | Tier 1 | 0.80 | 0.39 | | | 5.0 | 1.1 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94–16.—FULL USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO AND $NO_X$

| Fuel | LVW (lbs) | ALVW (lbs) | Standards | THC[2] | NMHC[1] | OMHCE[2] | OMNMHCE[1] | CO[1] | $NO_X$[1] |
|---|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Gasoline | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Gasoline | | 3751–5750 | Tier 1 | 0.80 | 0.46 | | | 6.4 | 0.98 |
| Gasoline | | > 5750 | Tier 1 | 0.80 | 0.56 | | | 7.3 | 1.53 |
| Diesel | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| Diesel | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| Diesel | | 3751–5750 | Tier 1 | 0.80 | 0.46 | | | 6.4 | 0.98 |
| Diesel | | > 5750 | Tier 1 | 0.80 | 0.56 | | | 7.3 | 1.53 |
| Methanol | 0–3750 | | Tier 0 | | | 0.80 | | 10 | 1.2 |
| Methanol | > 3750 | | Tier 0 | | | 0.80 | | 10 | 1.7 |
| Methanol | | 3751–5750 | Tier 1 | | | 0.80 | 0.46 | 6.4 | 0.98 |
| Methanol | | > 5750 | Tier 1 | | | 0.80 | 0.56 | 7.3 | 1.53 |
| Natural Gas | 0–3750 | | Tier 0 | | 0.67 | | | 10 | 1.2 |
| Natural Gas | > 3750 | | Tier 0 | | 0.67 | | | 10 | 1.7 |
| Natural Gas | | 3751–5750 | Tier 1 | | 0.46 | | | 6.4 | 0.98 |
| Natural Gas | | > 5750 | Tier 1 | | 0.56 | | | 7.3 | 1.53 |
| LPG | 0–3750 | | Tier 0 | 0.80 | | | | 10 | 1.2 |
| LPG | > 3750 | | Tier 0 | 0.80 | | | | 10 | 1.7 |
| LPG | | 3751–5750 | Tier 1 | 0.80 | 0.46 | | | 6.4 | 0.98 |
| LPG | | > 5750 | Tier 1 | 0.80 | 0.56 | | | 7.3 | 1.53 |

[1] The applicable useful life is 11 years or 120,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 90,000 miles, whichever first occurs.
[2] The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

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TABLE H94–18.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR PM

| Fuel | LVW (lbs) | ALVW (lbs) | Standards | PM |
|---|---|---|---|---|
| Gasoline | 0–3750 | | Tier 0 | |
| Gasoline | > 3750 | | Tier 0 | |
| Gasoline | | 3751–5750 | Tier 1 | 0.10 |
| Gasoline | | > 5750 | Tier 1 | 0.12 |
| Diesel | 0–3750 | | Tier 0 | 0.26 |
| Diesel | > 3750 | | Tier 0 | 0.13 |
| Diesel | | 3751–5750 | Tier 1 | 0.10 |

TABLE H94–18.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR PM—Continued

| Fuel | LVW (lbs) | ALVW (lbs) | Standards | PM |
|---|---|---|---|---|
| Diesel | ..... | > 5750 | Tier 1 ..... | 0.12 |
| Methanol | 0–3750 | ..... | Tier 0 ..... | ..... |
| Methanol | > 3750 | ..... | Tier 0 ..... | ..... |
| Methanol | ..... | 3751–5750 | Tier 1 ..... | 0.10 |
| Methanol | ..... | > 5750 | Tier 1 ..... | 0.12 |
| Natural Gas | 0–3750 | ..... | Tier 0 ..... | [2]0.26 |
| Natural Gas | > 3750 | ..... | Tier 0 ..... | [2]0.13 |
| Natural Gas | ..... | 3751–5750 | Tier 1 ..... | 0.10 |
| Natural Gas | ..... | > 5750 | Tier 1 ..... | 0.12 |
| LPG | 0–3750 | ..... | Tier 0 ..... | [2]0.26 |
| LPG | > 3750 | ..... | Tier 0 ..... | [2]0.13 |
| LPG | ..... | 3751–5750 | Tier 1 ..... | 0.10 |
| LPG | ..... | > 5750 | Tier 1 ..... | 0.12 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.
[2] Applicable only to diesel-cycle vehicles.

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79. Section 86.709–99 of subpart H is amended by revising Tables H99–1 and H99–2 following paragraph (a)(1)(i)(A), and Tables H99–3 and H99–4 following paragraph (a)(1)(ii)(A), to read as follows:

**§ 86.709–99 In-use emission standards for 1999 and later model year light-duty trucks.**

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(a)(1)(i)(A) * * *

TABLE H99–1.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS

| Fuel | LVW (lbs) | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| Gasoline | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.08 |
| Diesel | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 1.0 | 0.08 |
| Diesel | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.97 | 0.08 |
| Methanol | 0–3750 | ..... | ..... | ..... | 0.25 | 3.4 | 0.4 | 0.08 |
| Methanol | 3751–5750 | ..... | ..... | ..... | 0.32 | 4.4 | 0.7 | 0.08 |
| Natural Gas | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| Natural Gas | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.08 |
| LPG | 0–3750 | ..... | 0.25 | ..... | ..... | 3.4 | 0.4 | 0.08 |
| LPG | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.08 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H99–2.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS

| Fuel | LVW (lbs) | THC[2] | NMHC[1] | OMHCE[2] | OMNMHCE[1] | CO[1] | $NO_x$[1] | PM[1] |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 0–3750 | 0.80 | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| Gasoline | 3751–5750 | 0.80 | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |
| Diesel | 0–3750 | 0.80 | 0.31 | ..... | ..... | 4.2 | 1.25 | 0.10 |
| Diesel | 3751–5750 | 0.80 | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |
| Methanol | 0–3750 | ..... | ..... | 0.80 | 0.31 | 4.2 | 0.6 | 0.10 |
| Methanol | 3751–5750 | ..... | ..... | 0.80 | 0.40 | 5.5 | 0.97 | 0.10 |
| Natural Gas | 0–3750 | ..... | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| Natural Gas | 3751–5750 | ..... | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |
| LPG | 0–3750 | 0.80 | 0.31 | ..... | ..... | 4.2 | 0.6 | 0.10 |
| LPG | 3751–5750 | 0.80 | 0.40 | ..... | ..... | 5.5 | 0.97 | 0.10 |

[1] The applicable useful life is 10 yeras or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.
[2] The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

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(ii)(A) * * *

TABLE H99–3.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS

| Fuel | ALVW (lbs) | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 3751–5750 | 0.80 | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.10 |
| Gasoline | >5750 | 0.80 | 0.39 | ..... | ..... | 5.0 | 1.1 | 0.12 |
| Diesel | 3751–5750 | 0.80 | 0.32 | ..... | ..... | 4.4 | 0.98 | 0.10 |

TABLE H99–3.—INTERMEDIATE USEFUL LIFE[1] STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS—Continued

| Fuel | ALVW (lbs) | THC | NMHC | OMHCE | OMNMHCE | CO | $NO_x$ | PM |
|---|---|---|---|---|---|---|---|---|
| Diesel | >5750 | 0.80 | 0.39 | ..... | ..... | 5.0 | 1.53 | 0.12 |
| Methanol | 3751–5750 | ..... | ..... | 0.80 | 0.32 | 4.4 | 0.7 | 0.10 |
| Methanol | >5750 | ..... | ..... | 0.80 | 0.39 | 5.0 | 1.1 | 0.12 |
| Natural Gas | 3751–5750 | ..... | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.10 |
| Natural Gas | >5750 | ..... | 0.39 | ..... | ..... | 5.0 | 1.1 | 0.12 |
| LPG | 3751–5750 | 0.80 | 0.32 | ..... | ..... | 4.4 | 0.7 | 0.10 |
| LPG | >5750 | 0.80 | 0.39 | ..... | ..... | 5.0 | 1.1 | 0.12 |

[1] The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H99–4.—FULL USEFUL LIFE[1] STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS

| Fuel | ALVW (lbs) | THC[2] | NMHC[1] | OMHCE[2] | OMNMHCE[1] | CO[1] | $NO_x$[1] | PM[1] |
|---|---|---|---|---|---|---|---|---|
| Gasoline | 3751–5750 | 0.80 | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| Gasoline | >5750 | 0.80 | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |
| Diesel | 3751–5750 | 0.80 | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| Diesel | >5750 | 0.80 | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |
| Methanol | 3751–5750 | ..... | ..... | 0.80 | 0.46 | 6.4 | 0.98 | 0.10 |
| Methanol | >5750 | ..... | ..... | 0.80 | 0.56 | 7.3 | 1.53 | 0.12 |
| Natural Gas | 3751–5750 | ..... | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| Natural Gas | >5750 | ..... | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |
| LPG | 3751–5750 | 0.80 | 0.46 | ..... | ..... | 6.4 | 0.98 | 0.10 |
| LPG | >5750 | 0.80 | 0.56 | ..... | ..... | 7.3 | 1.53 | 0.12 |

[1] The applicable useful life is 11 years or 120,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 90,000 miles, whichever first occurs.
[2] The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

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80a. Section 86.884–1 of subpart I is revised to read as follows:

**§ 86.884–1 General applicability.**

The provisions of this subpart are applicable to new petroleum-fueled diesel heavy-duty engines beginning with the 1984 model year, methanol-fueled diesel heavy-duty engines beginning with the 1990 model year and natural gas-fueled and liquefied petroleum gas-fueled diesel heavy-duty engines beginning with the 1997 model year. The provisions of this subpart are optional prior to the 1997 model year for natural gas-fueled and liquefied petroleum gas-fueled diesel heavy-duty engines.

**§ 86.884–4 [Amended].**

80b. Section 86.884–4 is amended by revising the words "86.084–4(a)" to read "86.084–4".

81. The title of subpart M is revised to read as follows:

**Subpart M—Evaporative Emission Test Procedures for New Gasoline-Fueled, Natural Gas-Fueled, Liquefied Petroleum Gas-Fueled and Methanol-Fueled Heavy-Duty Vehicles**

82a. Section 86.1201–90 of subpart M is amended by revising paragraph (a) to read as follows:

**§ 86.1201–90 Applicability.**

(a) The provisions of this subpart are applicable to new gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled heavy-duty vehicles.

* * * * *

82b. Section 86.1204 is added to subpart M to read as follows:

**§ 86.1204 Section numbering.**

The section numbering system set forth in § 86.104 applies to this subpart.

83. Section 86.1205–90 of subpart M is amended by revising paragraph (a) to read as follows:

**§ 86.1205–90 Introduction; structure of subpart.**

(a) This subpart describes the equipment required and the procedures to follow in order to determine evaporative emission levels from gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled heavy-duty vehicles.

* * * * *

84. Section 86.1206–96 of subpart M is amended by revising the introductory text to read as follows:

**§ 86.1206–96 Equipment required; overview.**

This subpart specifies procedures for testing of gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled heavy-duty vehicles. Equipment required and specifications are as follows:

* * * * *

85. Section 86.1207–96 of subpart M is amended by revising paragraph (b)(1) to read as follows:

**§ 86.1207–96 Sampling and analytical systems; evaporative emissions.**

* * * * *

(b) * * *

(1) For gasoline-fueled, liquefied petroleum gas-fueled, natural gas-fueled and methanol-fueled vehicles a hydrocarbon analyzer utilizing the hydrogen flame ionization principle (FID) shall be used to monitor the atmosphere within the enclosure (a heated FID (HFID) (235° ±15 °F (113 ±8 °C)) is required for methanol-fueled vehicles). Provided evaporative emission results are not affected, a probe may be used to detect or verify hydrocarbon sources during a running loss test. Instrument bypass flow may be returned to the enclosure. The FID shall have a response time to 90 percent of final reading of less than 1.5 seconds.

* * * * *

86. A new section 86.1213–94 is added to subpart M to read as follows:

**§ 86.1213–94 Fuel specifications.**

(a) *Gasoline fuel.* (1) Gasoline having the following specifications will be used in emissions testing for gasoline-fueled vehicles.

| Item | ASTM test method No. | Value |
|---|---|---|
| Octane, research, min. | D2699 | 93 |
| Sensitivity, min. | | 7.5 |
| Lead (organic) g/U.S. gal | D3237 | [1] 0.050 |
| (g/liter) | | [1] (0.013) |
| Distillation range: | | |
| IBP °F | D86 | 75–95 |
| (°C) | | (23.9–35) |
| 10 pct. point °F | D86 | 120–135 |
| (°C) | | (48.9–57.2) |
| 50 pct. point °F | D86 | 200–230 |
| (°C) | | (93.3–110) |
| 90 pct. point °F | D86 | 300–325 |
| (°C) | | (148.9–162.8) |
| EP, max. °F | D86 | 415 |
| (°C) | | (212.8) |
| Sulphur, max. wt. pct. | D1266 | 0.10 |
| Phosphorous, max. g/U.S. gal. | D3231 | 0.005 |
| (g/liter) | | (0.0013) |
| RVP, psi. | D323 | 8.7–9.2 |
| (kPa) | | (60.0–63.4) |
| Hydrocarbon composition: | | |
| Olefins, max. pct. | D1319 | 10 |
| Aromatics, max. pct. | D1319 | 35 |
| Saturates | D1319 | [2] |

[1] Maximum.
[2] Remainder.

(2) (i) Unleaded gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation.

(ii) The octane rating of the gasoline used shall be no higher than 1.0 Research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number.

(iii) The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraphs (a)(1) and (a)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(b) *Methanol fuel.* (1) Methanol fuel used in evaporative emission testing and in service accumulation of methanol-fueled vehicles shall be representative of commercially available methanol fuel and shall consist of at least 50 percent methanol ($CH_3OH$) by volume.

(i) Manufacturers shall recommend the methanol fuel to be used for testing and service accumulation.

(ii) The Administrator shall determine the methanol fuel to be used for testing and service accumulation.

(2) Other methanol fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Use of a fuel listed under paragraph (b)(1) of this section would have a detrimental effect on emissions or durability; and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the methanol fuels to be used under paragraphs (b)(1) and (b)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(c) *Mixtures of petroleum and methanol fuels for flexible fuel vehicles.* (1) Mixtures of petroleum and methanol fuels used for exhaust and evaporative emission testing and service accumulation for flexible fuel vehicles shall be within the range of fuel mixtures for which the vehicle was designed.

(2) Manufacturer testing and service accumulation may be performed using only those mixtures (mixtures may be different for exhaust testing, evaporative testing and service accumulation) expected to result in the highest emissions, provided:

(i) The fuels which constitute the mixture will be used in customer service;

(ii) Information, acceptable to the Administrator, is provided by the manufacturer to show that the designated fuel mixtures would result in the highest emissions; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraphs (c)(1) and (c)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(d) *Natural gas fuel.* (1) Natural gas fuel having the following specifications will be used in evaporative emission testing and in service accumulation of natural gas-fueled vehicles shall be commercially available natural gas fuel.

NATURAL GAS CERTIFICATION FUEL SPECIFICATIONS

| Item | | ASTM test method No. | Value |
|---|---|---|---|
| Methane | min. mole pct | D1945 | 89.0 |

NATURAL GAS CERTIFICATION FUEL SPECIFICATIONS—Continued

| Item | | ASTM test method No. | Value |
|---|---|---|---|
| Ethane | max. mole pct | D1945 | 4.5 |
| $C_3$ and higher | max. mole pct | D1945 | 2.3 |
| $C_6$ and higher | max. mole pct | D1945 | 0.2 |
| Oxygen | max. mole pct | D1945 | 0.6 |
| Inert gases: | | | |
| Sum of $CO_2$ and $N_2$ | max. mole pct | D1945 | 4.0 |
| Odorant[1] | | | |

[1] The natural gas at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability.

(2) Natural gas fuel representative of commercial natural gas which will be generally available through retail outlets shall be used in service accumulation.

(3) Other natural gas fuels may be used for emission testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(4) The specification range of the fuels to be used under paragraphs (d)(1), (d)(2) and (d)(3) of this section shall be reported in accordance with § 86.094–21(b)(3).

(e) *Liquefied petroleum gas-fuel.* (1) Liquefied petroleum gas-fuel used in evaporative emission testing and in service accumulation of liquefied petroleum gas-fueled vehicles shall be commercially available liquefied petroleum gas-fuel.

(i) Manufacturers shall recommend the liquefied petroleum gas-fuel to be used for testing and service accumulation.

(ii) The Administrator shall determine the liquefied petroleum gas-fuel to be used for testing and service accumulation.

(2) Other liquefied petroleum gas fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraphs (e)(1) and (e)(2) of this section shall be measured in accordance with ASTM D2163–91 and reported in accordance with § 86.094–21(b)(3).

87. Section 86.1221–90 of subpart M is amended by revising paragraphs (a) introductory text, (a)(2) and (b)(3), and adding paragraph (e) to read as follows:

**§ 86.1221–90 Hydrocarbon analyzer calibration.**

* * * * *

(a) *Initial and periodic optimization of detector response.* Prior to its introduction into service and at least annually thereafter, the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. (The HFID used with methanol-fueled vehicles shall be operated at 235° ±15°F (113° ±8°C)). Analyzers used with gasoline-fuel and liquefied petroleum gas-fuel shall be optimized using propane. Analyzers used with natural gas-fuel may be optimized using methane, or if calibrated using propane the FID response to methane shall be determined and applied to the FID hydrocarbon reading. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

* * * * *

(2) Optimize on the most common operating range. Introduce into the analyzer a propane (or methane as appropriate) in air mixture with a propane (or methane as appropriate) concentration equal to approximately 90 percent of the most common operating range.

* * * * *

(b) * * *

(3) Calibrate on each normally used operating range with propane in air (or methane in air as appropriate) calibration gases having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least squares best-fit straight line is two percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds two percent at any point, the best-fit non-linear equation which represents the data to within two percent of each test point shall be used to determine concentration.

* * * * *

(e) *FID response factor to methane.* When the FID analyzer to be used for the analysis of natural gas-fueled vehicle hydrocarbon samples has been calibrated using propane, the methane response factor of the analyzer shall be established. To determine the total hydrocarbon FID response to methane, known methane in air concentrations traceable to National Institute of Standards and Technology (NIST) shall be analyzed by the FID. Several methane concentrations shall be analyzed by the FID in the range of concentrations in the exhaust sample. The total hydrocarbon FID response to methane is calculated as follows:

$r_{CH4}$ = FIDppm/SAMppm

Where:

(1) $r_{CH4}$ = FID response factor to methane.

(2) FIDppm = FID reading in ppmC.

(3) SAMppm = the known methane concentration in ppmC.

88. Section 86.1227–96 of subpart M is amended by revising the section heading and paragraphs (b) introductory text and (b)(2) to read as follows:

**§ 86.1227–96 Test procedures; overview.**

* * * * *

(b) The evaporative emission test (gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled, and methanol-fueled vehicles) is designed to determine hydrocarbon and/or methanol evaporative emissions as a consequence of diurnal temperature fluctuation urban driving and hot soaks during engine-off periods. It is associated with a series of events representative of heavy-duty vehicle operation, which result in hydrocarbon and/or methanol vapor losses. The test procedure is designed to measure:

* * * * *

(2) Running losses resulting from a simulated trip on a chassis dynamometer, measured by the enclosure or point-source technique (see § 86.1234; this test is not required for gaseous-fueled vehicles); and

* * * * *

89. Section 86.1230–96 of subpart M is amended by revising paragraphs (a) and (b), to read as follows:

**§ 86.1230–96 Test sequence; general requirements.**

(a)(1) *Gasoline- and methanol-fueled vehicles.* The test sequence shown in figure M96–1 of this section shows the steps encountered as the test vehicle undergoes the procedures subsequently described to determine conformity with the standards set forth. The full three-diurnal sequence depicted in figure M96–1 tests vehicles for all sources of evaporative emissions. The supplemental two-diurnal test sequence is designed to verify that vehicles sufficiently purge their evaporative canisters during the dynamometer run. Sections 86.1232–96, 86.1233–96 and 86.1238–96 describe the separate specifications of the supplemental two-diurnal test sequence.

(2) *Gaseous-fueled vehicles.* The test sequence shown in figure M96–1 of this section shows the steps encountered as the test vehicle undergoes the procedures subsequently described to determine conformity with the standards set forth, with the exception that the fuel drain and fill and precondition canister steps are not required for gaseous-fueled vehicles. In addition, the supplemental two-diurnal test and the running loss test are not required.

(b) The vehicle test for fuel spitback during fuel dispensing is conducted as a stand-alone test (see § 86.1246). This test is not required for gaseous-fueled vehicles.

* * * * *

90. Section 86.1232–96 of subpart M is amended by revising paragraphs (b) and (f), to read as follows:

**§ 86.1232–96 Vehicle preconditioning.**

* * * * *

(b)(1) *Gasoline- and methanol-fueled vehicles.* Drain the fuel tank(s) and fill with test fuel, as specified in § 86.1213, to the "tank fuel volume" defined in § 86.082–2. The fuel cap(s) shall be installed within one minute after refueling.

(2) *Gaseous-fueled vehicles.* Vehicle fuel tanks are to be filled with fuel that meets the specifications in § 86.113. Fuel tanks shall be filled to a minimum of 75% of service pressure for natural gas-fueled vehicles or a minimum of 75% of available fill volume for liquefied petroleum gas-fueled vehicles. Prior draining of the fuel tanks is not called for if the fuel in the tanks already meets the specifications in § 86.113.

* * * * *

(f)(1) *Gasoline- and methanol-fueled vehicles.* Within five minutes of completion of the preconditioning drive, the vehicle shall be driven off the dynamometer and parked. For gasoline- and methanol-fueled vehicles, drain the fuel tank(s) and fill with test fuel, as specified in § 86.1213, to the "tank fuel volume" defined in § 86.082–2. The vehicle shall be refueled within one hour of completion of the preconditioning drive. The fuel cap(s) shall be installed within one minute after refueling.

(2) *Gaseous-fueled vehicles.* Within five minutes of completion of the preconditioning drive, the vehicle shall be driven off the dynamometer and parked. Vehicle fuel tanks shall be refilled with fuel that meets the specifications in § 86.113. Fuel tanks shall be filled to a minimum of 75% of service pressure for natural gas-fueled vehicles or a minimum of 75% of available fill volume for liquefied petroleum gas-fueled vehicles. Prior draining of the fuel tanks is not called for if the fuel in the tanks already meets the specifications in § 86.113.

* * * * *

91. Section 86.1233–96 of subpart M is amended by revising paragraphs (a)(1) and (a)(3) to read as follows:

**§ 86.1233–96 Diurnal emission test.**

(a)(1) The diurnal emission test for gasoline-, methanol- and gaseous-fueled vehicles consists of three 24-hour test cycles following the hot soak test. Emissions are measured for each 24-hour cycle, with the highest emission level used to determine compliance with the standards specified in subpart A of this part. The Administrator may truncate a test after any 24-hour cycle without affecting the validity of the collected data. Sampling of emissions from the running loss and hot soak tests is not required as preparation for the diurnal emission test. The diurnal emission test may be conducted as part of either the three-diurnal test sequence or the supplemental two-diurnal test sequence, as described in § 86.1230–96.

* * * * *

(3) For the supplemental two-diurnal test sequence, the diurnal emission test outlined in paragraph (p) of this section follows the alternate hot soak test specified in § 86.1238–96(k). This test is not required for gaseous-fueled vehicles.

* * * * *

92. Section 86.1234–96 of subpart M is amended by revising paragraph (a) to read as follows:

**§ 86.1234–96 Running loss test.**

(a) *Overview.* Gasoline- and methanol-fueled vehicles are to be tested for running loss emissions during simulated high-temperature urban driving; this test is not required for gaseous-fueled vehicles. During operation, tank temperatures are controlled according to a prescribed profile to simulate in-use conditions. If the vehicle is determined to have exceeded the standard before the end of the running loss test, the test may be terminated without invalidating the data. The test can be run either in a sealed enclosure or with the point-source method, as specified in paragraph (g) of this section.

* * * * *

93. Section 86.1238–96 of subpart M is amended by revising paragraph (a) to read as follows:

**§ 86.1238–96 Hot soak test.**

(a)(1) *Gasoline- and methanol-fueled vehicles.* For gasoline- and methanol-fueled vehicles, the hot soak test shall be conducted immediately following the running loss test. However, sampling of emissions from the running loss test is not required as preparation for the hot soak test.

(2) *Gaseous-fueled vehicles.* Since gaseous-fueled vehicles are not required to perform a running loss test, the hot soak test shall be conducted within five minutes of the hot start exhaust test.

* * * * *

94. Section 86.1242–90 of subpart M is amended by adding new paragraphs (m) and (n) to read as follows:

**§ 86.1242–90 Records required.**

* * * * *

(m) *For natural gas-fueled vehicles.* Composition, including all carbon containing compounds; e.g. $CO_2$, of the natural gas-fuel used during the test. $C_1$ and $C_2$ compounds shall be individually reported. $C_3$ and heavier hydrocarbons, and $C_6$ and heavier hydrocarbons may be reported as a group.

(n) *For liquefied petroleum gas-fueled vehicles.* Composition of the liquefied petroleum gas-fuel used during the test. Each hydrocarbon compound present, through $C_4$ compounds, shall be individually reported. $C_5$ and heavier hydrocarbons may be reported as a group.

95. Section 86.1243–96 of subpart M is amended by revising paragraphs (a) and (b)(1)(ii)(B) to read as follows:

**§ 86.1243–90 Calculations; evaporative emissions.**

(a) The following equations are used to calculate the evaporative emissions from gasoline- and methanol-fueled vehicles, and for gaseous-fueled vehicles.

(b) * * *

(1) * * *

(ii) * * *

(B) $C_{HC}$=FID hydrocarbon concentration as ppm carbon including FID response to methanol (or methane, as applicable) in the sample.

* * * * *

96. Section 86.1306–90 of subpart N is amended by revising paragraph (a) to read as follows:

**§ 86.1306–90 Equipment required and specifications; overview.**

(a) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled, Otto-cycle and diesel engines are tested identically with the exception of the systems used to measure hydrocarbon, nitrogen oxide, methanol, formaldehyde and particulate; petroleum-fueled diesel engines require a heated, continuous hydrocarbon detector and a continuous nitrogen oxide detector (§ 86.1310); methanol-fueled engines require a heated hydrocarbon detector, a methanol detector and a formaldehyde detector; either a heated or a non-heated continuous hydrocarbon detector may be used with natural gas-fueled and liquefied petroleum gas-fueled diesel engines; gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled Otto-cycle engines are not tested for particulate emissions (§ 86.1309). Necessary equipment and specifications appear in §§ 86.1308, 86.1309, 86.1310 and 86.1311.

* * * * *

97. Section 86.1306–96 of subpart N is amended by revising paragraph (a) to read as follows:

**§ 86.1306–96 Equipment required and specifications; overview.**

(a) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Petroleum-, natural gas-, liquefied petroleum gas-, and methanol-fueled Otto-cycle and diesel engines are tested identically with two exceptions. First, the systems used to measure hydrocarbon, nitrogen oxide, methanol, formaldehyde and particulate depend on the type of engine being tested; petroleum-fueled diesel engines require a heated, continuous hydrocarbon detector and a heated, continuous nitrogen oxide detector (see § 86.1310); methanol-fueled engines require a heated hydrocarbon detector, a methanol detector and a formaldehyde detector; either a heated or non-heated continuous hydrocarbon detector may be used with natural gas-fueled and liquefied petroleum gas-fueled diesel engines; gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled Otto-cycle engines are not tested for particulate emissions (see § 86.1309). Second, if a gasoline-fueled and methanol-fueled engine is to be used in a vehicle equipped with an evaporative canister, the test engine must have a loaded evaporative canister attached for the exhaust emission test. Necessary equipment and specifications appear in §§ 86.1308, 86.1309, 86.1310 and 86.1311.

* * * * *

98. Section 86.1309–90 of subpart N is amended by revising the section heading and paragraphs (a)(1) and (b)(4) to read as follows:

**§ 86.1309–90 Exhaust gas sampling system; Otto-cycle engines.**

(a)(1) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of gaseous emissions in the exhaust of either gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled or methanol-fueled Otto-cycle engines. In the CVS concept of measuring mass emissions, two conditions must be satisfied; the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned volume of sample must be collected for analysis. Mass emissions are determined from the sample concentration and total flow over the test period.

* * * * *

(b) * * *

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system. This is especially critical in the case of methanol-fueled engines and may also be of concern with natural gas- and liquefied petroleum gas-fueled engines; see "Calculation of Emissions and Fuel Economy When Using Alternative Fuels," EPA 460/3–83–009.

* * * * *

99. Section 86.1310–90 of subpart N is amended by revising the section heading and paragraphs (a) introductory text and (a)(2) to read as follows:

**§ 86.1310–90 Exhaust gas sampling and analytical system; and methanol-fueled diesel engines.**

(a) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of both gaseous and particulate emissions in the exhaust of petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309) of measuring mass emissions of HC, $CH_3OH$ and HCHO (methanol-fueled engines), CO, $CO_2$, and particulate from all fuel types. A continuously integrated system is required for HC (petroleum-fueled, natural gas-fueled and liquefied petroleum gas-fueled engines) and $NO_X$ (petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled engines) measurement, and is allowed for all CO and $CO_2$ measurements plus $CH_3OH$, HCHO and HC from methanol-fueled engines. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. The mass of particulate emissions is determined from a proportional mass sample collected on a filter and from the sample flow and total flow over the test period. As an option, the measurement of total fuel mass consumed over a cycle may be substituted for the exhaust measurement of $CO_2$. General requirements are as follows:

* * * * * *

(2) The HC analytical system for petroleum-fueled diesel engines requires a heated flame ionization detector (HFID) and heated sample system (375 ±20°F (191 ±11°C)). For natural gas-fueled and liquefied petroleum gas-fueled diesel engines either a heated flame ionization detector and heated sample system as required for petroleum fuel or a non-heated flame ionization detector may be used.

* * * * * *

100. A new section 86.1311–94 is added to subpart N to read as follows:

**§ 86.1311–94 Exhaust gas analytical system; CVS bag sample.**

(a) *Schematic drawings.* Figure N94–1 is a schematic drawing of the exhaust gas analytical system used for analyzing CVS bag samples from either Otto-cycle or diesel engines. Since various configurations can produce accurate results, exact conformance with the drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems. Other components such as snubbers, which are not needed to maintain accuracy in some systems, may be excluded if their exclusion is based upon good engineering judgment.

(b) *Major component description.* The analytical system, Figure N94–1, consists of a flame ionization detector (FID) (heated for methanol-fueled (235 ±15°F (113 ±8°C)) and for petroleum-fueled diesel (375 ±10°F (191 ±6°C) engines) for the measurement of hydrocarbons, a methane analyzer (consisting of a gas chromatograph combined with a FID) for the determination of $CH_4$ (for engines subject to NMHC standards, where applicable), nondispersive infrared analyzers (NDIR) for the measurement of carbon monoxide and carbon dioxide, and a chemiluminescence analyzer (CL) for the measurement of oxides of nitrogen. The analytical system for methanol consists of a gas chromatograph (GC), equipped with a flame ionization detector. The analysis for formaldehyde is performed using high pressure liquid chromatography (HPLC) of 2,4-dinitrophenylhydrazine (DNPH) derivatives using ultraviolet (UV) detection. The exhaust gas analytical system shall conform to the following requirements:

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or desiccating silica gel to remove water vapor, and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments are used which are essentially free of $CO_2$ and water vapor interference, the use of the conditioning column may be deleted (see §§ 86.1322 and 86.1342).

(ii) A CO instrument will be considered to be essentially free of $CO_2$ and water vapor interference if its response to a mixture of three percent $CO_2$ in $N_2$, which has been bubbled through water at room temperature, produces an equivalent CO response, as measured on the most sensitive CO range, which is less than one percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale (see § 86.1322).

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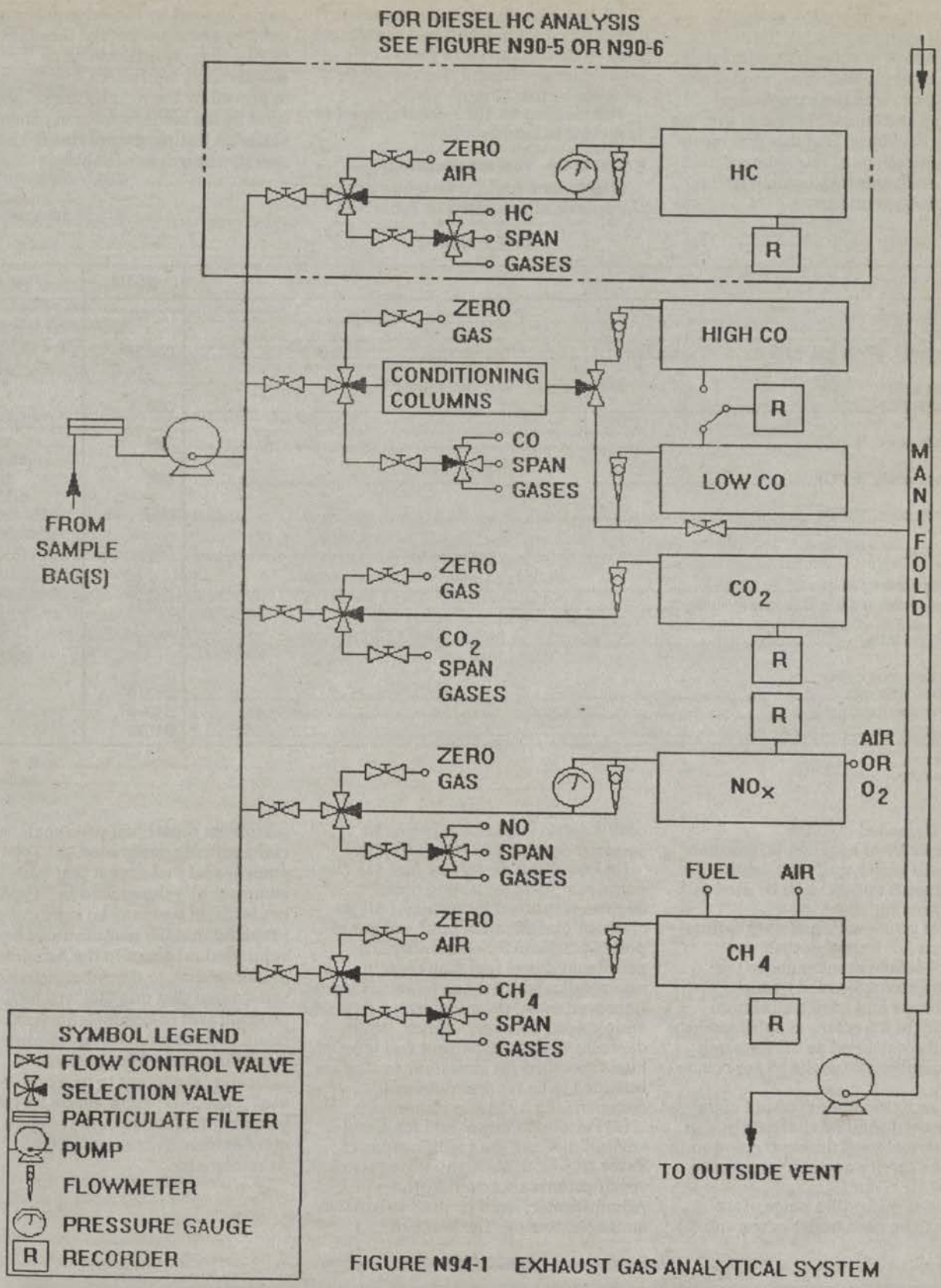


FIGURE N94-1 EXHAUST GAS ANALYTICAL SYSTEM

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(c) *Alternate analytical systems.* Analysis systems meeting the specifications of subpart D of this part may be used for testing required under this subpart, with the exception of §§ 86.346 and 86.347, provided that the systems in subpart D of this part meet the specifications of this subpart. Heated analyzers may be used in their heated configuration.

(d) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

102. Section 86.1313–94 of subpart N is revised to read as follows:

**§ 86.1313–94 Fuel specifications.**

(a) *Gasoline fuel.* (1) Gasoline having the specifications listed in Table N94–1 will be used by the Administrator in exhaust emission testing. Gasoline having these specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust emission testing, except that the octane specification does not apply.

TABLE N94–1

| Item | ASTM | Value |
|---|---|---|
| Octane, research, min | D2699 | 93 |
| Sensitivity, min | | 7.5 |
| Lead (organic), g/U.S. gal. (g/liter) | D3237 | [1] (0.050) |
| | | [1] (0.013) |
| Distillation range: | | |
| IBP, °F (°C) | D86 | 75–95 (23.9–35) |
| 10 pct. point, °F (°C) | D86 | 120–135 (48.9–57.2) |
| 50 pct. point, °F (°C) | D86 | 200–230 (93.3–110) |
| 90 pct. point, °F (°C) | D86 | 300–325 (148.9–162.8) |
| EP, max. °F (°C) | D86 | 415 (212.8) |
| Sulphur, Max., wt. pct | D1266 | 0.10 |
| Phosphorus, max., g/U.S. gal. (g/liter) | D3231 | 0.005 (0.0013) |
| RVP, psi (kPa) | D323 | 8.0–9.2 (60.0–63.4) |
| Hydrocarbon composition: | | |
| Olefins, max. pct | D1319 | 10 |
| Aromatics, max. pct | D1319 | 35 |
| Saturates | D1319 | [2] |

[1] Maximum.
[2] Remainder.

(2)(i) Unleaded gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation.

(ii) The octane rating of the gasoline used shall not be higher than one Research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number.

(iii) The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a) of this section shall be reported in accordance with § 86.094–21(b)(3).

(b) *Petroleum diesel test fuel.* (1) The petroleum fuels for testing diesel engines employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The petroleum diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, dispersant and biocide. Fuels specified for emissions testing are intended to be representative of commercially available in-use fuels.

(2) Petroleum diesel fuel for diesel engines meeting the specifications in Table N94–2, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of petroleum diesel fuel used shall be commercially designated as "Type 2–D" grade diesel fuel except that fuel commercially designated as "Type 1–D" grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence could include such things as copies of signed contracts from customers indicating the intent to purchase and use "Type 1–D" grade diesel fuel as the primary fuel for use in the engines or other evidence acceptable to the Administrator.

TABLE N94–2

| Item | ASTM | Type 1–D | Type 2–D |
|---|---|---|---|
| Cetane Number | D613 | 40–54 | 40–48 |
| Cetane Index | D976 | 40–54 | 40–48 |

TABLE N94–2—Continued

| Item | ASTM | Type 1–D | Type 2–D |
|---|---|---|---|
| Distillation range: | | | |
| IBP °F (°C) | D86 | 330–390 (165.6–198.9) | 340–400 (171.1–204.4) |
| 10 pct. point °F (°C) | D86 | 370–430 (187.8–221.1) | 400–460 (204.4–237.8) |
| 50 pct. point °F (°C) | D86 | 410–480 (210–248.9) | 470–540 (243.3–282.2) |
| 90 pct. point °F (°C) | D86 | 460–520 (237.8–271.1) | 560–630 (293.3–332.2) |
| EP °F (°C) | D86 | 500–560 (260.0–293.3) | 610–690 (321.1–365.6) |
| Gravity °API | D287 | 40–44 | 32–37 |
| Total sulfur pct | D2622 | 0.03–0.05 | 0.03–0.05 |
| Hydrocarbon composition: | | | |
| Aromatics, pct | D1319 | [1] 8 | [1] 27 |
| Paraffins, Naphthenes, Olefins | D1319 | [2] | [2] |
| Flashpoint, min., °F (°C) | D93 | 120 (48.9) | 130 (54.4) |
| Viscosity, centistokes | D445 | 1.6–2.0 | 2.0–3.2 |

[1] Maximum.
[2] Remainder.

(3) Petroleum diesel fuel for diesel engines meeting the specifications in Table N94–3, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of petroleum diesel fuel used shall be commercially designated as "Type 2–D" grade diesel fuel except that fuel commercially designated as "Type 1–D" grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence could include such things as copies of signed contracts from customers indicating the intent to purchase and use "Type 1–D" grade diesel fuel as the primary fuel for use in the engines or other evidence acceptable to the Administrator.

TABLE N94–3

| Item | ASTM | Type 1–D | Type 2–D |
|---|---|---|---|
| Cetane Number | D613 | 40–56 | 30–58 |
| Cetane Index | D976 | Min. 40 | Min. 40 |
| Distillation range: | | | |
| 90 pct. point °F (°C) | D86 | 440–530 (226.7–276.7) | 540–630 (282.2–332.2) |
| Gravity °API | D287 | 39–45 | 30–42 |
| Total sulfur, min. pct | D2622 | 0.03–0.05 | 0.03–0.05 |
| Flashpoint, min. °F (°C) | D93 | 120 (48.9) | 130 54.4 |
| Viscosity, centistokes | D445 | 1.2–2.2 | 1.5–4.5 |

(4) Other petroleum distillate fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability; and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraph (b) of this section shall be reported in accordance with § 86.094–21(b)(3).

(c) *Methanol-fuel.* (1) Methanol fuel used for exhaust and evaporative emission testing and in service accumulation of methanol-fueled engines shall be representative of commercially available methanol fuel and shall consist of at least 50 percent methanol by volume.

(i) Manufacturers shall recommend the methanol fuel to be used for testing and service accumulation.

(ii) The Administrator shall determine the methanol fuel to be used for testing and service accumulation.

(2) Other methanol fuels may be used for testing and service accumulation provided:

(i) They are commercially available; and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Use of a fuel listed under paragraph (b)(4)(c)(1) of this section would have a detrimental effect on emissions or durability; and

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraphs (c)(1) and (c)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(d) *Mixtures of petroleum and methanol fuels for flexible fuel vehicles.*

(1) Mixtures of petroleum and methanol fuels used for exhaust and evaporative emission testing and service accumulation for flexible fuel vehicles shall be within the range of fuel mixtures for which the vehicle was designed.

(2) Manufacturer testing and service accumulation may be performed using only those mixtures (mixtures may be different for exhaust testing, evaporative testing and service accumulation) expected to result in the highest emissions, provided:

(i) The fuels which constitute the mixture will be used in customer service;

(ii) Information, acceptable to the Administrator, is provided by the manufacturer to show that the designated fuel mixtures would result in the highest emissions; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraph (d)(2) of this section shall be reported in accordance with § 86.090–21(b)(3).

(e) *Natural gas-fuel.* (1) Natural gas-fuel having the following specifications will be used by the Administrator for exhaust and evaporative emission testing of natural gas-fueled engines:

NATURAL GAS CERTIFICATION FUEL SPECIFICATIONS

| Item | | ASTM test method No. | Value |
|---|---|---|---|
| Methane | min. mole pct. | D1945 | 89.0 |
| Ethane | max. mole pct. | D1945 | 4.5 |
| $C_3$ and higher | max. mole pct. | D1945 | 2.3 |
| $C_6$ and higher | max. mole pct. | D1945 | 0.2 |
| Oxygen | max. mole pct. | D1945 | 0.6 |
| Inert gases: | | | |
| Sum of $CO_2$ and $N_2$ | max. mole pct. | D1945 | 4.0 |
| Odorant [1] | | | |

[1] The natural gas at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability.

(2) Natural gas-fuel representative of commercial natural gas-fuel and which will be generally available through retail outlets shall be used in service accumulation.

(3) Other natural gas-fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(4) The specification range of the fuels to be used under paragraphs (e)(1) and (e)(2) of this section shall be reported in accordance with § 86.094–21(b)(3).

(f) *Liquified petroleum gas-fuel.* (1) Liquified petroleum gas-fuel used for exhaust and evaporative emission testing and in service accumulation shall be commercially available liquefied petroleum gas-fuel.

(i) Manufacturers shall recommend the liquefied petroleum gas-fuel to be used for testing and service accumulation.

(ii) The Administrator shall determine the liquefied petroleum gas-fuel to be used for testing and service accumulation.

(2) Other liquefied petroleum gas-fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service; and

(iii) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(3) The specification range of the fuels to be used under paragraphs (f)(1) and (f)(2) of this section shall be measured in accordance with ASTM D2163–91 and reported in accordance with § 86.094–21(b)(3).

(g) Fuels not meeting the specifications set forth in this section may be used only with the advance approval of the Administrator.

102. A new section 86.1314–94 is added to subpart N to read as follows:

**§ 86.1314–94 Analytical gases.**

(a) Gases for the CO and $CO_2$ analyzers shall be single blends of CO and $CO_2$, respectively, using nitrogen as the diluent.

(b) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(c) Gases for the methane analyzer shall be single blends of methane using air as the diluent.

(d) Gases for the $NO_X$ analyzer shall be single blends of NO named as $NO_X$ with a maximum $NO_2$ concentration of five percent of the nominal value using nitrogen as the diluent.

(e) Fuel for the FID and the methane analyzer shall be a blend of 40 ±2 percent hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response; 98 to 100 percent hydrogen fuel may be used with advance approval of the Administrator.

(f) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(g)(1) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(2) Calibration gases shall be accurate to within ±1 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(3) Span gases shall be accurate to within ±2 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(h) The use of precision blending devices (gas dividers) to obtain the required calibration gas concentrations is acceptable, provided that the blended gases are accurate to within ±1.5 percent of NBS gas standards, or other gas standards which have been approved by the Administrator. This accuracy implies that primary gases used for blending must be "named" to an accuracy of at least ±1 percent, traceable to NBS or other approved gas standards.

103. A new section 86.1316–94 is added to subpart N to read as follows:

**§ 86.1316–94 Calibrations; frequency and overview.**

(a) Calibrations shall be performed as specified in §§ 86.1318 through 86.1326.

(b) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer, methane analyzer, carbon dioxide analyzer, carbon monoxide analyzer, oxides of nitrogen analyzer, methanol analyzer and formaldehyde analyzer (certain analyzers may require more frequent calibration depending on the equipment and use).

(2) Calibrate the engine dynamometer flywheel torque and speed measurement transducers, and calculate the feedback signals to the cycle verification equipment.

(3) Check the oxides of nitrogen converter efficiency.

(c) At least weekly or after any maintenance which could alter calibration, the following checks shall be performed:

(1) Perform a CVS system verification.

(2) Check the shaft torque feedback signal at steady-state conditions by comparing:

(i) Shaft torque feedback to dynamometer beam load; or

(ii) By comparing in-line torque to armature current; or

(iii) By checking the in-line torque meter with a dead weight per § 86.1308(e).

(d) The CVS positive displacement pump or critical flow venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.1319).

(e) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

104. A new section 86.1321–94 is added to subpart N to read as follows:

**§ 86.1321–94 Hydrocarbon analyzer calibration.**

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID used with petroleum-fueled, natural gas-fueled and liquefied petroleum gas-fueled diesel engines shall be operated to a set point ±10 °F (±5.5 °C) between 365 and 385 °F (185 and 197 °C). The HFID used with methanol-fueled engines shall be operated at 235 ±15 °F (113 ±8 °C).

(a) *Initial and periodic optimization of detector response.* Prior to introduction into service and at least annually thereafter, the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(1) Follow good engineering practices for initial instrument start-up and basic operating adjustment using the appropriate fuel (see § 86.1314) and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer a propane-in-air mixture with a propane concentration equal to approximately 90 percent of the most common operating range.

(3) One of the following procedures is required for FID or HFID optimization:

(i) The procedures outlined in Society of Automotive Engineers (SAE) paper number 770141, "Optimization of Flame Ionization Detector for Determination of Hydrocarbons in Diluted Automobile Exhaust"; author, Glenn D. Reschke. Available from Society of Automotive Engineers International, 400 Commonwealth Dr., Warrendale, PA 15096–0001.

(ii) The HFID optimization procedures outlined in subpart D of this part.

(iii) Alternative procedures may be used if approved in advance by the Administrator.

(4) After the optimum flow rates have been determined, they are recorded for future reference.

(b) *Initial and periodic calibration.* Prior to introduction into service and monthly thereafter, the FID or HFID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate and pressures as when analyzing samples. Calibration gases shall be introduced directly at the analyzer, unless the "overflow" calibration option of § 86.1310(b)(3)(i) for the HFID is taken.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

(3) Calibrate on each used operating range with propane-in-air calibration gases having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is two percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds two percent at any point, the best-fit non-linear equation which represents the data to within two percent of each test point shall be used to determine concentration.

(c) *FID response factor to methanol.* When the FID analyzer is to be used for the analysis of hydrocarbon samples containing methanol, the methanol response factor of the analyzer shall be established. The methanol response factor shall be determined at several concentrations in the range of concentrations in the exhaust sample.

(1) The bag sample of methanol for analysis in the FID shall be prepared using the apparatus shown in Figure N90–10. A known volume of methanol is injected, using a microliter syringe, into the heated mixing zone (250 °F (121 °C)) of the apparatus. The methanol is vaporized and swept into the sample bag with a known volume of zero-grade air measured by a dry gas meter.

(2) The bag sample is analyzed using the FID.

(3) The FID response factor, r, is calculated as follows:

r=FIDppm/SAMppm

Where:

(i) r=FID response factor.

(ii) FIDppm=FID reading in ppmC.

(iii) SAMppm=methanol concentration in the sample bag in ppmC.

0.02406×fuel injected×fuel density=Air volume × mol. wt. $CH_3OH$

Where:

(iv) 0.02406=volume of one mole at 29.92 in Hg and 68 °F, $m^3$.

(v) Fuel injected = volume of methanol injected, ml.

(vi) Fuel density=density of methanol, 0.7914 g/ml.

(vii) Air volume=volume of zero-grade air, $m^3$.

(viii) Mol. Wt. CH3OH=32.04.

(d) *FID response factor to methane.* When the FID analyzer is to be used for the analysis of natural gas-fueled vehicle hydrocarbon samples, the methane response factor of the analyzer shall be established. To determine the total hydrocarbon FID response to methane, known methane in air concentrations traceable to National Institute of Standards and Technology (NIST) shall be analyzed by the FID. Several methane concentrations shall be analyzed by the FID in the range of concentrations in the exhaust sample. The total hydrocarbon FID response to methane is calculated as follows:

$r_{CH4}$=FIDppm/SAMppm

Where:

(1) $r_{CH4}$=FID response factor to methane.

(2) FIDppm=FID reading in ppmC.

(3) SAMppm=the known methane concentration in ppmC.

105. A new section 86.1325–94 is added to subpart N to read as follows:

**§ 86.1325–94 Methane analyzer calibration.**

Prior to introduction into service and monthly thereafter, the methane analyzer shall be calibrated:

(a) Follow the manufacturer's instructions for instrument startup and

operation. Adjust the analyzer to optimize performance.

(b) Zero the methane analyzer with zero-grade air.

(c) Calibrate on each normally used operating range with $CH_4$ in air with nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is two percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds two percent at any point, the best-fit non-linear equation which represents the data to within two percent of each test point shall be used to determine concentration.

106. A new section 86.1327–94 is added to subpart N to read as follows:

**§ 86.1327–94 Engine dynamometer test procedures; overview.**

(a) The engine dynamometer test procedure is designed to determine the brake specific emissions of hydrocarbons, nonmethane hydrocarbons (for natural gas-fueled engines only), carbon monoxide, oxides of nitrogen, particulate (petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled diesel engines), and methanol and formaldehyde (for methanol-fueled diesel engines). The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in §§ 86.1334 and 86.1335, respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of Subpart P may be run after the "hot" start test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during both the cold- and hot-start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), methane ($CH_4$—for natural gas-fueled engines only), carbon monoxide (CO), carbon dioxide ($CO_2$), and oxides of nitrogen ($NO_X$), or in sample collection impingers for methanol ($CH_3OH$) and sample collection impingers (or capsules) for formaldehyde (HCHO). Measurement of $CH_3OH$ and HCHO may be omitted for 1990 through 1994 model year methanol-fueled engines when a FID calibrated on methanol is used. A bag or continuous sample of the dilution air is similarly analyzed for background levels of hydrocarbon, methane, carbon monoxide, carbon dioxide and oxides of nitrogen and, if appropriate, methanol and formaldehyde. In addition, for petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled diesel engines, particulates are collected on fluorocarbon-coated glass fiber filters or fluorocarbon-based (membrane) filters, and the dilution air may be prefiltered.

(b) Engine torque and rpm shall be recorded continuously during both the cold- and hot-start tests. Data points shall be recorded at least once every second.

(c) Using the torque and rpm feedback signals the brake horsepower is integrated with respect to time for the cold and hot cycles. This produces a brake horsepower-hour value that enables the brake-specific emissions to be determined (see § 86.1342, Calculations, gaseous exhaust emissions; and § 86.1343, Calculations, particulate exhaust emissions).

(d)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air-cooled engines, the fan shall be installed.

(4) Additional accessories (*e.g.*, oil cooler, alternators, air compressors, etc.) may be installed or their loading simulated if typical of the in-use application.

(5) The engine may be equipped with a production type starter.

(e) Means of engine cooling which will maintain the engine operating temperatures (*e.g.*, temperatures of intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer. Rust inhibitors and lubrication additives may be used, up to the levels recommended by the additive manufacturer. Antifreeze mixtures and other coolants typical of those approved for use by the manufacturer may be used.

(f) *Exhaust system.* The exhaust system shall meet the following requirements:

(1) *Otto-cycle engines.* A chassis-type exhaust system shall be used. For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides data showing equivalent performance at another location.

(2) *Diesel engines.* Either a chassis-type or a facility-type exhaust system or both systems simultaneously may be used. The exhaust backpressure or restriction shall be typical of those seen in the actual average vehicle exhaust system configuration and may be set with a valve (muffler omitted).

(i) The engine exhaust system shall meet the following requirements:

(A) The total length of the tubing from the exit of the engine exhaust manifold or turbocharger outlet to the primary dilution tunnel should not exceed 32 feet (9.8 m).

(B) The initial portion of the exhaust system may consist of a typical in-use (*i.e.*, length, diameter, material, etc.) chassis-type exhaust system.

(C) The distance from the exhaust manifold flange(s) to any exhaust aftertreatment device shall be the same as in the vehicle configuration unless the manufacturer is able to demonstrate equivalent performance at another location.

(D) If the exhaust system tubing from the exit of the engine exhaust manifold or turbocharger outlet to the primary dilution tunnel exceeds 12 feet (3.7 m) in length, then all tubing in excess of 12 feet (3.7 m) (chassis and/or facility type) shall be insulated.

(E) If the tubing is required to be insulated, the radial thickness of the insulation must be at least 1.0 inch. The thermal conductivity of the insulating material must have a value no greater than 0.75 BTU—in/hr/ft²/°F measured at 700°F.

(F) A smoke meter or other instrumentation may be inserted into the exhaust system tubing. If this option is exercised in the insulated portion of the tubing, then a minimal amount of tubing not to exceed 18 inches may be left uninsulated. However, no more than 12 feet of tubing can be left uninsulated in total, including the length at the smoke meter.

(ii) The facility-type exhaust system shall meet the following requirements:

(A) It must be composed of smooth tubing made of typical in-use steel or stainless steel. This tubing shall have a maximum inside diameter of 6.0 in (15 cm).

(B) Short sections (altogether not to exceed 20 percent of the entire tube length) of flexible tubing at connection points are allowed.

107. Section 86.1327–96 of subpart N is amended by revising paragraphs (a), (f)(1) and (f)(2) introductory text to read as follows:

**§ 86.1327–96 Engine dynamometer test procedures; overview.**

(a) The engine dynamometer test procedure is designed to determine the brake-specific emissions of hydrocarbons, nonmethane hydrocarbons (for natural gas-fueled engines only), carbon monoxide, oxides of nitrogen, particulate (petroleum-fueled and methanol-fueled diesel engines), and methanol and formaldehyde (for methanol-fueled diesel engines). The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in §§ 86.1334 and 86.1335, respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of subpart P of this part may be run after the "hot" start test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during both the cold- and hot-start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), methane ($CH_4$—natural gas-fueled engines only), carbon monoxide (CO), carbon dioxide ($CO_2$), and oxides of nitrogen ($NO_X$), or in sample collection impingers for methanol ($CH_3OH$) and sample collection impingers (or capsules) for formaldehyde (HCHO). A bag or continuous sample of the dilution air is similarly analyzed for background levels of hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen and, if appropriate, methane, or methanol and formaldehyde. In addition, for petroleum-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled diesel engines, particulates are collected on fluorocarbon-coated glass fiber filters or fluorocarbon-based (membrane) filters, and the dilution air may be prefiltered.

* * * * *

(f) * * *

(1) *Otto-cycle engines.* A chassis-type exhaust system shall be used. For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides data showing equivalent performance at another location.

(2) *Diesel engines.* Either a chassis-type or a facility-type exhaust system or both systems simultaneously may be used. The exhaust back pressure or restriction shall be typical of those seen in the actual average vehicle exhaust system configuration and may be set with a valve (muffler omitted).

* * * * *

108. Section 86.1332–90 of subpart N is amended by revising paragraphs (c)(1) heading, (c)(2) heading, (d)(2) heading, (d)(3) heading, (e)(1) heading and (e)(2) heading to read as follows:

**§ 86.1332–90 Engine mapping procedures.**

* * * * *

(c) * * *

(1) *Otto-cycle engines.*

* * * * *

(2) *Diesel engines.*

* * * * *

(d) * * *

(2) *Otto-cycle engines.*

* * * * *

(3) Diesel engines.

* * * * *

(e) * * *

(1) *Otto-cycle engines.*

* * * * *

(2) *Diesel engines.*

* * * * *

109. Section 86.1336–84 of subpart N is amended by revising paragraph (e)(2) heading to read as follows:

**§ 86.1336–84 Engine starting, restarting, and shutdown.**

* * * * *

(e) * * *

(2) *Diesel-fueled, natural gas-fueled and liquefied petroleum gas-fueled engines.*

* * * * *

110. Section 86.1337–90 of subpart N is amended by revising paragraphs (a)(7), (a)(8), (a)(13), (a)(20) and (a)(26) to read as follows:

**§ 86.1337–90 Engine dynamometer test run.**

(a) * * *

(7) For diesel engines tested for particulate emissions, carefully install a clean particulate sample filter into each of the filter holders and install the assembled filter holders in the sample flow line (filter holders may be preassembled).

(8) Follow the manufacturers choke and throttle instructions for cold starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For petroleum-fueled diesel engines (and natural gas-fueled, liquified petroleum gas-fueled or methanol-fueled diesels, if used), turn on the hydrocarbon and $NO_X$ (and CO and $CO_2$, if continuous) analyzer system integrators (if used), and turn on the particulate sample pumps and indicate the start of the test on the data collection medium.

* * * * *

(13) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower (or disconnect the exhaust system from the CVS). As soon as possible, transfer the "cold start cycle" exhaust and dilution air bag samples according to § 86.1340. A stabilized reading of the exhaust sample on all analyzers shall be obtained within 20 minutes of the end of the sample collection phase of the test. Analysis of the methanol and formaldehyde samples shall be obtained within 24 hours of the end of the sample collection period. For diesel engines tested for particulate, carefully remove the filter holder from the sample flow apparatus, remove each particulate sample filter from its holder and place each in a petri dish and cover.

* * * * *

(20) For diesel engines tested for particulate, carefully install a clean particulate filter in each of the filter holders and install assembled filter holders in the sample flow line (filter holders may be preassembled).

* * * * *

(26) As soon as possible, transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340. A stabilized reading of the exhaust sample on all analyzers shall be obtained within 20 minutes of the end of the sample collection phase of the test. Analyze the methanol and formaldehyde samples within 24 hours. (If it is not possible to perform analysis within 24 hours, the samples should be stored in a cold (approximately 0°C) dark environment until analysis can be performed). For diesel engines tested for particulate, carefully remove the assembled filter holder from the sample flow lines and remove each particulate sample filter from its holder and place in a clean petri dish and cover as soon as possible. Within one hour after the end of the hot start phase of the test, transfer the four particulate filters to the weighing chamber for post-test conditioning.

* * * * *

111. Section 86.1337–96 of subpart N is amended by revising paragraphs (a)(7), (a)(8), (a)(13), (a)(20) and (a)(26) to read as follows:

**§ 86.1337–96 Engine dynamometer test run.**

(a) * * *

(7) For diesel engines tested for particulate emissions, carefully install clean particulate sample filter into each of the filter holders and install the assembled filter holders in the sample flow line (filter holders may be preassembled).

(8) Follow the manufacturer's choke and throttle instructions for cold

starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For petroleum-fueled diesel engines (and natural gas-fueled, liquified petroleum gas-fueled or methanol-fueled diesels, if used) turn on the hydrocarbon and $NO_X$ (and CO and $CO_2$, if continuous) analyzer system integrators (if used), and turn on the particulate sample pumps and indicate the start of the test on the data collection medium.

* * * * *

(13) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower (or disconnect the exhaust system from the CVS). As soon as possible, transfer the "cold start cycle" exhaust and dilution air bag samples according to § 86.1340. A stabilized reading of the exhaust sample on all analyzers shall be obtained within 20 minutes of the end of the sample collection phase of the test. Analysis of the methanol and formaldehyde samples shall be obtained within 24 hours of the end of the sample collection period. For diesel engines tested for particulate, carefully remove the filter holder from the sample flow apparatus, remove each particulate sample filter from its holder and place each in a petri dish and cover.

* * * * *

(20) For diesel engines tested for particulate, carefully install a clean particulate filter in each of the filter holders and install assembled filter holders in the sample flow line (filter holders may be preassembled).

* * * * *

(26) As soon as possible, transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340. A stabilized reading of the exhaust sample on all analyzers shall be obtained within 20 minutes of the end of the sample collection phase of the test. Analyze the methanol and formaldehyde samples within 24 hours. (If it is not possible to perform analysis within 24 hours, the samples should be stored in a cold (approximately 0°C) dark environment until analysis can be performed). For diesel engines tested for particulate, carefully remove the assembled filter holder from the sample flow lines, remove each particulate sample filter from its holder, place in a clean petri dish and cover as soon as possible. Within one hour after the end of the hot start phase of the test, transfer the four particulate filters to the weighing chamber for post-test conditioning.

* * * * *

112. A new section 86.1340–94 is added to subpart N to read as follows:

**§ 86.1340–94 Exhaust sample analysis.**

Section 86.1340–94 includes text that specifies requirements that differ from § 86.1340–90. Where a paragraph in § 86.1340–90 is identical and applicable to § 86.1340–94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.1340–90."

(a) through (d)(6) [Reserved]. For guidance see § 86.1340–90.

(d)(7) Measure HC (except diesels), $CH_4$ (natural gas-fueled engines only), CO, $CO_2$, and $NO_X$ sample bag(s) with approximately the same flow rates and pressures used in § 86.1340–90(d)(3). (Constituents measured continuously do not require bag analysis.)

(d)(8) through (h)(2) [Reserved]. For guidance see § 86.1340–90.

113. A new section 86.1342–94 is added to subpart N to read as follows:

**§ 86.1342–94 Calculations; exhaust emissions.**

Section 86.1342–94 includes text that specifies requirements that differ from § 86.1342–90. Where a paragraph in § 86.1342–90 is identical and applicable to § 86.1342–94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.1342–90."

(a) introductory text [Reserved]. For guidance see § 86.1342–90.

(a)(1) $A_{WM}$ = Weighted mass emission level (HC, CO, $CO_2$ or $NO_X$) in grams per brake horsepower-hour and, if appropriate, the weighted mass organic material hydrocarbon equivalent or non-methane hydrocarbon, in grams per brake horsepower-hour.

(a)(2) through (b)(7) [Reserved]. For guidance see § 86.1342–90.

(b)(8) Non-methane hydrocarbon mass:

$$NMHC_{mass} = V_{mix} \times Density_{NMHC} \times (NMHC_{conc}/1{,}000{,}000)$$

(c) through (d)(1)(i) [Reserved]. For guidance see § 86.1342–90.

(d)(1)(ii) $Density_{HC}$ = Density of hydrocarbons.

(A) For gasoline and the gasoline fraction of methanol-fuel, and may be used for petroleum and the petroleum fraction of methanol diesel fuel if desired; 16.33 g/ft³-carbon atom (0.5768 kg/m³-carbon atom).

(B) For #1 petroleum diesel fuel; 16.42 g/ft³-carbon atom (0.5800 kg/m³-carbon atom).

(C) For #2 diesel 16.27 g/ft³-carbon atom (0.5746 kg/m³-carbon atom). Average carbon to hydrogen ratios of 1:1.85 for gasoline, 1:1.93 for #1 petroleum diesel fuel and 1:1.80 for #2 petroleum diesel fuel are assumed at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(D) For natural gas and liquified petroleum gas-fuel; 1.1771 (12.011+H/C (1.008)) g/ft³-carbon atom (0.04157 (12.011+H/C (1.008)) kg/m³-carbon atom) where H/C is hydrogen to carbon ratio of the hydrocarbon components of the test fuel, at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(d)(1)(iii) through (d)(1)(iv)(A) [Reserved]. For guidance see § 86.1342–90.

(d)(1)(iv)(B) For petroleum-fueled, natural gas-fueled and liquified petroleum gas-fueled engines, $HC_c$ is the FID measurement.

(d)(1)(iv)(C) through (d)(3)(v)(A) [Reserved]. For guidance see § 86.1342–90.

(d)(3)(v)(B) $CO_c = [1 - (0.01 + 0.005HCR)\,CO_{2c} - 0.000323R]\,CO_{cm}$ for methanol-fuel, natural gas-fuel and liquified petroleum gas-fuel where HCR is hydrogen to carbon ratio as measured for the fuel used.

Where:

(d)(3)(vi) through (d)(7)(ii) [Reserved]. For guidance see § 86.1342–90.

For natural gas-fueled or liquefied petroleum gas-fueled vehicles where fuel composition is $C_xH_y$ as measured for the fuel used.

(d)(8)(i) [Reserved]. For guidance see § 86.1342–90.

(d)(8)(ii) Otto-cycle engines: $K_H = 1/[1–0.0047\,(H–75)]$ (or for SI units, $K_H = 1/[1–0.0329(H–10.71)]$).

(d)(7)(iii)

$$DF = \frac{100 \times \frac{x}{x + y/2 + 3.76(x + y/4)}}{CO_{2e} + (NMHC_e + CH_{4e} + CO_e) \times 10^{-4}}$$

(iii) For diesel engines: $K_H = 1/[1-0.0026\ (H-75)]$ (or for SI units = $1/[1-0.0182\ (H-10.71)]$).

Where:

(d)(8)(iv) through (d)(9)(x) [Reserved]. For guidance see § 86.1342–90.

(d)(10)(i) $NMHC_{conc} = HC_{conc} - CH4_{conc}$

(ii) $Density_{NMHC}$ = The density of non-methane hydrocarbon, is 1.1771(12.011 + H/C (1.008)) g/ft³-carbon atom (0.04157(12.011 + H/C (1.008))kg/m³-carbon atom), where H/C is the hydrogen to carbon ratio of the non-methane hydrocarbon components of the test fuel, at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(iii)(A) $CH_{4conc}$ = Methane concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent.

(B) $CH_{4conc} = r_{CH4} \times (CH_{4e} - CH_{4d}(1-1/DF))$

Where:

(*1*) $CH_{4e}$ = Methane exhaust bag concentration in ppm carbon equivalent.

(*2*) $CH_{4d}$ = Methane concentration of the dilution air in ppm carbon equivalent.

(*3*) $r_{CH4}$ = HC FID response to methane for natural gas-fueled vehicles as measured in § 86.1321 (d).

(e) through (h)(2)(vii) [Reserved]. For guidance see § 86.1342–90.

114. A new section 86.1344–94 is added to subpart N to read as follows:

**§ 86.1344–94 Required information.**

(a) The required test data shall be grouped into the following three general categories:

(1) *Engine set up and descriptive data.* These data must be provided to the EPA supervisor of engine testing for each engine sent to the Administrator for confirmatory testing prior to the initiation of engine set-up. These data are necessary to ensure that EPA test personnel have the correct data in order to set up and test the engine in a timely and proper manner. These data are not required for tests performed by the manufacturers.

(2) *Pre-test data.* These data are general test data that must be recorded for each test. The data are of a more descriptive nature such as identification of the test engine, test site number, etc. As such, these data can be recorded at any time within 24 hours of the test.

(3) *Test data.* These data are physical test data that must be recorded at the time of testing.

(b) When requested, data shall be supplied in the format specified by the Administrator.

(c) *Engine set-up data.* Because specific test facilities may change with time, the specific data parameters and number of items may vary. The Application Format for Certification for the applicable model year will specify the exact requirements. In general, the following types of data will be required:

(1) Engine manufacturer.
(2) Engine system combination.
(3) Engine code and CID.
(4) Engine identification number.
(5) Applicable engine model year.
(6) Engine fuel type.
(7) Recommended oil type.
(8) Exhaust pipe configuration, pipe sizes, etc.
(9) Curb or low idle speed.
(10) Dynamometer idle speed (automatic transmission engines only).
(11) Engine parameter specifications such as spark timing, operating temperature, advance curves, etc.
(12) Engine performance data, such as maximum BHP, previously measured rated rpm, fuel consumption, governed speed, etc.
(13) Recommended start-up procedure.
(14) Maximum safe engine operating speed.
(15) Number of hours of operation accumulated on engine.
(16) Manufacturer's recommended inlet depression limit and typical in-use inlet depression level.
(17) Exhaust system:
(i) *Diesel engines:*
(A) Header pipe inside diameter.
(B) Tailpipe inside diameter.
(C) Minimum distance in-use between the exhaust manifold flange and the exit of the chassis exhaust system.
(D) Manufacturer's recommended maximum exhaust backpressure limit for the engine.
(E) Typical backpressure, as determined by typical application of the engine.
(F) Minimum backpressure required to meet applicable noise regulations.
(ii) *Otto-cycle engines:* Typical in-use backpressure in vehicle exhaust system.

(d) *Pre-test data.* The following data shall be recorded and reported to the Administrator for each test conducted for compliance with the provisions of subpart A of this part:

(1) Engine-system combination.
(2) Engine identification.
(3) Instrument operator(s).
(4) Engine operator(s).
(5) Number of hours of operation accumulated on the engine prior to beginning the test sequence (Figure N84–10).
(6) Identification and specifications of test fuel used.
(7) Date of most recent analytical assembly calibration.
(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve number, etc. As long as this information is traceable, it may be summarized by system or analyzer identification numbers.

(e) *Test data.* The physical parameters necessary to compute the test results and ensure accuracy of the results shall be recorded for each test conducted for compliance with the provisions of subpart A of this part. Additional test data may be recorded at the discretion of the manufacturer. Extreme details of the test measurements such as analyzer chart deflections will generally not be required on a routine basis to be reported to the Administrator for each test, unless a dispute about the accuracy of the data arises. The following types of data shall be required to be reported to the Administrator. The Application Format for Certification for the applicable model year will specify the exact requirements which may change slightly from year to year with the addition or deletion of certain items.

(1) Date and time of day.
(2) Test number.
(3) Engine intake air or test cell temperature.
(4) Barometric pressure. (A central laboratory barometer may be used: *Provided*, that individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.)
(5) Engine intake or test cell and CVS dilution air humidity.
(6) Maximum torque versus speed curve as determined in § 86.1332, with minimum and maximum engine speeds, and a description of the mapping technique used.
(7) Measured maximum horsepower and maximum torque speeds.
(8) Measured maximum horsepower and torque.
(9) Measured high idle engine speed (governed diesel engines only).
(10) Measured fuel consumption at maximum power and torque (diesel engines only).
(11) Cold-soak time interval and cool down procedures.
(12) Temperature set point of the heated continuous analysis system components (if applicable).
(13) Test cycle validation statistics as specified in § 86.1341 for each test phase (cold and hot).
(14) Total CVS flow rate with dilution factor for each test phase (cold and hot).
(15) Temperature of the dilute exhaust mixture and secondary dilution air (in the case of a double dilution system) at the inlet to the respective gas meter(s) or flow instrumentation used for particulate sampling.

(16) The maximum temperature of the dilute exhaust mixture immediately ahead of the particulate filter.

(17) Sample concentrations (background corrected) for HC, CO, $CO_2$ and $NO_X$ for each test phase (cold and hot).

(18) For methanol-fueled engines:

(i) Volume of sample passed through the methanol sampling system and the volume of deionized water in each impinger.

(ii) The methanol concentration in the reference sample and the peak area from the GC analysis of the reference sample.

(iii) The peak area of the GC analyses of the test samples (methanol).

(iv) Volume of sample passed through the formaldehyde sampling system.

(v) The formaldehyde concentration in the reference sample and the peak area from the LC analysis of the reference sample.

(vi) The peak area of the LC analysis of the test sample (formaldehyde).

(vii) Specification of the methanol-fuel used during testing.

(19) For natural gas-fueled engines: Composition, including all carbon containing compounds; *e.g.*, $CO_2$, of the natural gas-fuel used during the test. $C_1$ and $C_2$ compounds shall be individually reported. $C_3$ and heavier compounds, and $C_6$ and heavier compounds may be reported as a group.

(20) For liquefied petroleum gas-fueled engines: Composition of the liquefied petroleum gas-fuel used during the test. Each hydrocarbon compound present, through $C_4$ compounds, shall be individually reported. $C_5$ and heavier hydrocarbons may be reported as a group.

(21) The stabilized pre-test weight and post-test weight of each particulate sample and back-up filter or pair of filters.

(22) Brake specific emissions (g/BHP-hr) for HC, CO, $NO_X$ and, if applicable, OMHCE, $CH_3OH$ and HCHO for methanol-fueled vehicles for each test phase (cold and hot).

(23) The weighted (cold and hot) brake specific emissions (g/BHP-hr) for the total test.

(24) The weighted (cold and hot) carbon balance or mass-measured brake specific fuel consumption for the total test.

(25) The number of hours of operation accumulated on the engine after completing the test sequences described in Figure N84–10.

115. The title of subpart P is revised to read as follows:

**Subpart P—Emission Regulations for New Gasoline-Fueled, Natural Gas-Fueled, Liquefied Petroleum Gas-Fueled and Methanol-Fueled Heavy-Duty Engines and New Gasoline-Fueled, Natural Gas-Fueled, Liquefied Petroleum Gas-Fueled and Methanol-Fueled Light-Duty Trucks; Idle Test Procedures**

116. A new section 86.1501–94 is added to subpart P to read as follows:

**§ 86.1501–94 Scope; applicability.**

This subpart contains gaseous emission idle test procedures for gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled Otto-cycle heavy-duty engines, and for gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled Otto-cycle light-duty trucks. It applies to 1994 and later model years. The idle test procedures are optionally applicable to 1990 through 1993 model year natural-gas fueled and liquefied petroleum gas-fueled Otto-cycle heavy-duty engines and Otto-cycle light-duty trucks.

117. A new section 86.1504–94 is added to subpart P to read as follows:

**§ 86.1504–94 Section numbering; construction.**

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example: Section 86.1511–84 applies to the 1984 and subsequent model years until superseded. If § 86.1511–85 is promulgated, it would take effect beginning with the 1985 model year. Section 86.1511–83 would apply to model years 1983 and 1984.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) All provisions in the subpart apply to gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled and methanol-fueled Otto-cycle heavy-duty engines, and to gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled, and methanol-fueled Otto-cycle light-duty trucks.

118. A new section 86.1505–94 is added to subpart P to read as follows:

**§ 86.1505–94 Introduction; structure of subpart.**

(a) This subpart describes the equipment and the procedures required to perform idle exhaust emission tests on Otto-cycle heavy-duty engines and Otto-cycle light-duty trucks. Subpart A sets forth the testing requirements, reporting requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.1505 through 86.1515 set forth specifications and equipment requirements; §§ 86.1516 through 86.1526 discuss calibration methods and frequency; test procedures and data requirements are listed in §§ 86.1527 through 86.1542 and calculation formulas are found in § 86.1544.

119. A new section 86.1506–94 is added to subpart P to read as follows:

**§ 86.1506–94 Equipment required and specifications; overview.**

(a) This subpart contains procedures for performing idle exhaust emission tests on Otto-cycle heavy-duty engines and Otto-cycle light-duty trucks. Equipment required and specifications are as follows:

(1) *Exhaust emission tests.* All engines and vehicles subject to this subpart are tested for exhaust emissions. Necessary equipment and specifications appear in §§ 86.1509 through 86.1511.

(2) *Fuel and analytical tests.* Fuel requirements for idle exhaust emission testing are specified in § 86.1513. Analytical gases are specified in § 86.1514.

120. A new section 86.1513–94 is added to subpart P to read as follows:

**§ 86.1513–90 Fuel specifications.**

The requirements of this section are set forth in § 86.1313–94 for heavy-duty engines and in § 86.113–94 for light-duty trucks.

**PART 88—[AMENDED]**

121. The authority citation for part 88 continues to read as follows:

**Authority:** 42 U.S.C. 7410, 7418, 7581, 7582, 7583, 7584, 7586, 7588, 7589 and 7601(a).

122. Section 88.311–93 of subpart C is amended by revising paragraphs (a)(1)(iii), (c) and (d) to read as follows:

**§ 88.311–93 Emission standards for Inherently Low-Emission Vehicles.**

(a) * * *

(1) * * *

(iii) The vehicle must meet other special requirements applicable to conventional or clean-fuel vehicles and their fuels as described in any other parts of this chapter, including 40 CFR parts 86 and 88.

* * * * *

(c) *Light-duty vehicles and light-duty trucks.* ILEVs in LDV and LDT classes shall have exhaust emissions standards in grams per mile listed in Table C93–

6.1, as measure under the applicable Federal Test Procedures in 40 CFR part 86, subpart B. An ILEV must be able to operate on only one fuel, or must be certified as an ILEV on all fuels it can operate on. These vehicles shall also comply with all requirements of 40 CFR part 86 which are applicable to conventional gasoline-fueled, methanol-fueled, or diesel-fueled, natural gas-fueled or liquefied petroleum gas-fueled LDVs/LDTs of the same vehicle class and model year.

(d) *Heavy-duty vehicles.* ILEVs in the HDV class shall have exhaust emissions with combined non-methane hydrocarbon and oxides of nitrogen exhaust emissions which do not exceed the exhaust emission standards in grams per brake horsepower-hour listed in Table C93–6.2, as measure under the applicable Federal Test Procedures in 40 CFR part 86, subpart M. An ILEV must be able to operate on only one fuel, or must be certified as an ILEV on all fuels it can operate on. These vehicles shall also comply with all requirements of 40 CFR part 86 which are applicable in the case of conventional gasoline-fueled, methanol-fueled, or diesel-fueled, natural gas-fueled or liquefied petroleum gas-fueled HDVs of the same weight class and model year.

* * * * *

## PART 600—[AMENDED]

123. The authority citation for part 600 continues to read as follows:

**Authority:** 15 U.S.C. 2001, 2002, 2003, 2005, 2006, and 2013.

124. Section 600.113–93 of subpart B is amended by revising the introductory text and paragraphs (a), (b)(1), (b)(2) and (d), and adding new paragraph (c)(3) and (h), to read as follows:

**§ 600.113–93 Fuel economy calculations.**

The Administrator will use the calculation procedure set forth in this paragraph for all official EPA testing of vehicles fueled with gasoline, diesel, methanol or natural gas fuel. The calculations of the weighted fuel economy values require input of the weighted grams/mile values for total hydrocarbons (HC), carbon monoxide (CO), and carbon dioxide ($CO_2$); and, additionally for methanol-fueled automobiles, methanol ($CH_3OH$) and formaldehyde (HCHO); and additionally for natural gas-fueled vehicles non-methane hydrocarbons (NMHC) and methane ($CH_4$) for both the city fuel economy test and the highway fuel economy test. Additionally, the specific gravity, carbon weight fraction and net heating value of the test fuel must be determined. The city and highway fuel economy values shall be calculated as specified in this section. A sample appears in Appendix II to this part.

(a) Calculate the weighted grams/mile values for the city fuel economy test for HC, CO and $CO_2$; and, additionally for methanol-fueled automobiles, $CH_3OH$ and HCHO; and additionally for natural gas-fueled automobiles NMHC and $CH_4$ as specified in § 86.144 of this chapter. Measure and record the test fuel's properties as specified in paragraph (c) of this section.

(b)(1) Calculate the mass values for the highway fuel economy test for HC, CO and $CO_2$, and where applicable $CH_3OH$, HCHO, NMHC and $CH_4$ as specified in § 86.144(b) of this chapter. Measure and record the test fuel's properties as specified in paragraph (c) of this section.

(2) Calculate the grams/mile values for the highway fuel economy test for HC, CO and $CO_2$, and where applicable $CH_3OH$, HCHO, NMHC and $CH_4$ by dividing the mass values obtained in paragraph (b)(1) of this section, by the actual distance traveled, measured in miles, as specified in § 86.135(h) of this chapter.

(c) * * *

(3) Natural gas test fuel shall be analyzed to determine the following fuel properties:

(i) Fuel composition per ASTM D 1945–91, Standard Test Method for Analysis of Natural Gas By Gas Chromatography. 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 the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. Copies may be inspected at U.S. EPA, OAR, 401 M Street, SW., Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(ii) Specific gravity (based on fuel composition per ASTM D 1945).

(iii) Carbon weight fraction based on the carbon contained only in the HC constituents of the fuel=weight of carbon in HC constituents divided by the total weight of fuel.

(iv) Carbon weight fraction of fuel=total weight of carbon in the fuel (i.e., includes carbon contained in HC and in $CO_2$) divided by total weight of fuel.

(d) Calculate the city fuel economy and highway fuel economy from the grams/mile values for total HC, CO, $CO_2$ and, where applicable, $CH_3OH$, HCHO, NMHC and $CH_4$ and, the test fuel's specific gravity, carbon weight fraction, net heating value, and additionally for natural gas, the test fuel's composition. The emission values (obtained per paragraph (a) or (b) of this section, as applicable) used in each calculation of this section shall be rounded in accordance with § 86.084–26(a)(6)(iii) of this chapter. The $CO_2$ values (obtained per paragraph (a) or (b) of this section, as applicable) used in each calculation of this section shall be rounded to the nearest gram/mile. The specific gravity and the carbon weight fraction (obtained per paragraph (c) of this section) shall be recorded using three places to the right of the decimal point. The net heating value (obtained per paragraph (c) of this section) shall be recorded to the nearest whole Btu/lb. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29–67.

* * * * *

(h) For automobiles fueled with natural gas, the fuel economy in miles per gallon of natural gas is to be calculated using the following equation:

$$mpg_e = \frac{CWF_{HC/NG} D_{NG}\ 121.5}{(0.749)CH_4 + (CWF_{NMHC})NMHC + (0.429)CO + (0.273)(CO_2 - CO_{2NG})}$$

Where:

$mpg_e$=miles per equivalent gallon of natural gas.

$CWF_{HC/NG}$=carbon weight fraction based on the hydrocarbon constituents in the natural gas fuel as obtained in paragraph (d) of this section.

$D_{NG}$=density of the natural gas fuel [grams/ft³ at 68 °F (20 °C) and 760 mm Hg (101.3 kPa)] pressure as obtained in paragraph (d) of this section.

$CH_4$, NMHC, CO, and $CO_2$=weighted mass exhaust emissions [grams/mile] for methane, non-methane

HC, carbon monoxide, and carbon dioxide as calculated in § 600.113.

$CWF_{NMHC}$=carbon weight fraction of the non-methane HC constituents in the fuel as determined from the speciated fuel composition per paragraph (c)(2) of this section.

$CO_{2NG}$=grams of carbon dioxide in the natural gas fuel consumed per mile of travel.

$CO_{2NG}=FC_{NG}\ D_{NG}\ WF_{CO2}$

where:

$FC_{NG}$ = cubic feet of natural gas fuel consumed per mile

$$= \frac{(0.749)CH_4 + (CWF_{NMHC})NMHC + (0.429)CO + (0.273)(CO_2)}{CWF_{NG} D_{NG}}$$

where:

$CWF_{NG}$=the carbon weight fraction of the natural gas fuel as calculated in paragraph (d) of this section.

$WF_{CO2}$=weight fraction carbon dioxide of the natural gas fuel calculated using the mole fractions and molecular weights of the natural gas fuel constituents per ASTM D 1945.

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federal register

Wednesday
September 21, 1994

Part III

# Department of the Interior

## Bureau of Indian Affairs

**Tribal-State Compacts Approval; Class III (Casino) Gambling: Las Vegas Paiute Tribe, Nevada; Notice**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Approved Tribal-State Compact.

**SUMMARY:** Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Las Vegas Paiute Tribe and the State of Nevada Gaming Compact, which was executed on June 7, 1994.

**DATES:** This action is effective September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Larry Scrivner, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: September 9, 1994.

**Ada E. Deer,**

*Assistant Secretary—Indian Affairs.*

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federal register

Wednesday
September 21, 1994

Part IV

# Architectural and Transportation Barriers Compliance Board

36 CFR Part 1191

Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Recreation Facilities and Outdoor Developed Areas; Proposed Rule

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Part 1191

[Docket No. 94–1]

RIN 3014–AA16

### Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Recreation Facilities and Outdoor Developed Areas

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) announces that its Recreation Access Advisory Committee has issued a report with recommendations for making recreation facilities and outdoor developed areas readily accessible to and usable by individuals with disabilities. Single copies of the report may be obtained from the Access Board. The Access Board will use the committee's report to develop a notice of proposed rulemaking establishing accessibility guidelines for newly constructed and altered recreation facilities and outdoor developed areas under the Americans with Disabilities Act and the Architectural Barriers Act. The Access Board seeks public comment on the committee's report and will consider the comments along with the report as it develops the notice of proposed rulemaking.

**DATES:** Comments should be received by December 20, 1994. Comments received after this date will be considered to the extent practicable.

**ADDRESSES:** Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m. on regular business days.

**FOR FURTHER INFORMATION CONTACT:** Peggy H. Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 ext. 34 (Voice); (202) 272–5449 (TTY). These are not toll-free numbers. This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

**SUPPLEMENTARY INFORMATION:**

#### Advisory Committee Report

Single copies of the Recreation Access Advisory Committee's report may be obtained at no cost by calling the Access Board's automated publications order line (202–272–5434), pressing 1 on the telephone keypad, then 1 again and requesting publication S26 (Recreation Report). Persons using a TTY should call 202–272–5449. Please record a name, address and telephone number. Persons who want a copy in an alternate format, should specify the type of format (audio cassette tape, braille, large print, or computer disk).

#### Background

The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines under the Americans with Disabilities Act of 1990 to ensure that new construction and alterations of facilities covered by the law are readily accessible to and usable by individuals with disabilities.[1] The Access Board initially issued the Americans with Disabilities Act Accessibility Guidelines in 1991. 36 CFR part 1191. ADAAG contains scoping provisions and technical specifications for designing parking areas, entrances, toilet rooms and other elements and spaces that typically comprise a building and its site so that individuals with disabilities will have ready access to and use of the facility. ADAAG also contains additional provisions for certain types of facilities, including restaurants, medical care facilities, business and mercantile establishments, libraries, transient lodging, and transportation facilities.[2]

Various types of recreation facilities and outdoor developed areas are covered by the Americans with Disabilities Act. Newly constructed and altered recreation facilities and outdoor developed areas are currently required to comply with ADAAG, as adopted by the Department of Justice as the standards for accessible design (28 CFR 36.406), where its provisions can be applied. For example, parking areas, entrances, toilet rooms, restaurants, and mercantile establishments that are part of newly constructed and altered recreation facilities and outdoor developed areas must comply with ADAAG.[3]

Recreation facilities and other outdoor developed areas have some unique features for which additional accessibility guidelines need to be developed. In July 1993, the Access Board convened an advisory committee as the first step in developing these guidelines. The committee was comprised of owners and operators of recreation facilities; persons who design recreation facilities or manufacture related equipment; local, State and Federal officials responsible for parks and other outdoor developed areas; and individuals with disabilities and organizations representing their interests.

The committee was requested to accomplish the following objectives within one year:

- Develop a list of the various types of recreation facilities and outdoor developed areas;
- Identify the features of each facility type that are not adequately addressed by ADAAG;
- Consider any unique design issues or constraints affecting access to each facility type;
- Review any existing voluntary guidelines for providing access to the various facility types; and
- Make recommendations for accessibility guidelines for each facility type.

The committee organized itself into six subcommittees based on facility types to accomplish these objectives: Sports facilities; places of amusement; play settings; golf; boating and fishing facilities; and outdoor developed areas.

The committee met five times between July 1993 and May 1994. Committee members spent most of their time working in subcommittees which reported to the full committee. The subcommittees also worked between committee meetings. Committee meetings were well attended by persons interested in the committee's work and public comment was received at each

[1] The Americans with Disabilities Act (ADA) (42 U.S.C. 12101 et seq.) is a comprehensive Civil Rights law which prohibits discrimination on the basis of disability and requires, among other things, that newly constructed and altered State and local government building, places of public accommodation, and commercial facilities be accessible to and usable by individuals with disabilities.

[2] The Access Board recently issued an interim final rule that adds provisions to ADAAG for certain State and local government facilities, including judicial, legislative and regulatory facilities; detention and correction facilities; residential housing; and public rights-of-way. 59 FR 31676 (June 20, 1994).

[3] State and local governments currently have the option of using ADAAG or an earlier standard, the Uniform Federal Accessibility Standards (UFAS), when constructing or altering facilities under the Department of Justice regulations (28 CFR 35.151(c)). The Department of Justice has recently issued a notice of proposed rulemaking to eliminate this option. 59 FR 31808 (June 20, 1994).

meeting. The subcommittees also encouraged interested persons to participate in their work, including providing information and reviewing draft reports. More than 250 people actively participated in the committee's and subcommittees' work and collectively gave between 50,000 and 60,000 hours of their time.

In July 1994, the committee formally presented its report to the Access Board. During the next year, the Access Board will review the committee's report and develop a notice of proposed rulemaking to establish accessibility guidelines for newly constructed and altered recreation facilities and outdoor developed areas under the Americans with Disabilities Act. The Access Board is also responsible for developing accessibility guidelines for federally financed facilities under the Architectural Barriers Act (42 U.S.C. 4151 et seq.) and anticipates that the notice of proposed rulemaking will also apply to recreation facilities and outdoor developed areas covered under that law. In view of the significant public interest in the committee's report and the rulemaking, the Access Board is providing copies of the committee's report to the public and will receive comments from the public on the committee's report for a 90-day period from the publication of this notice. Comments received during this period will be considered along with the committee's report as the Access Board develops the notice of proposed rulemaking.

Local, State and Federal government agencies and private entities which own or operate recreation facilities and outdoor developed areas are encouraged to review the committee's report and to send their comments to the Access Board. Individuals with disabilities and their organizations, and other interested persons are also encouraged to review and comment on the committee's report.

The committee's report contains recommendations only, and are not proposed or final accessibility guidelines. As indicated above, the committee performed most of its work through six subcommittees based on facility types. The recommendations represent the consensus of the members of each subcommittee, and not necessarily the full committee. The subcommittees approached their work with the premise that every newly constructed and altered recreation facility should be accessible. Separate facilities or areas for use by individuals with disabilities were considered to be inconsistent with the purposes of the Americans with Disabilities Act and the Architectural Barriers Act. The subcommittees identified numerous features of recreation facilities that are not adequately addressed by ADAAG. In some cases, the subcommittees recommended amending existing ADAAG sections to address the specific features. In other cases, the subcommittees recommended new scoping provisions and technical specifications for ADAAG and drafted guideline language with rationale. The draft guideline language does not necessarily conform to the ADAAG format and numbering system. Persons reviewing the committee's report need not comment on the format of the draft guideline language. The Access Board will address format issues when it develops the notice of proposed rulemaking. Rather, persons reviewing the committee's report should focus on the substance of the recommendations.

The subcommittees also identified a few areas where providing access could eliminate or change the recreation activity or experience and proposed possible solutions.[4] For example, the sports facilities subcommittee identified that providing a slip resistant surface on ice skating rinks would eliminate or change the sport and recommended that the ice surface of the rink should be exempt from any slip resistance requirement. In some areas, the subcommittees recommended that additional information and research were needed for providing access. Finally, the subcommittees noted several areas where accessibility guidelines need to be coordinated with other laws and regulations, including regulations issued by the Department of Justice. The Access Board will refer these issues to the appropriate agencies, including the Department of Justice, for their consideration.

The committee's report is 202 pages and contains many detailed recommendations which cannot be readily summarized in this notice. To assist persons reviewing the committee's report, some of the recommendations are discussed below with questions. The Access Board is interested in receiving comments on all parts of the committee's report and encourages persons interested in the rulemaking to review the entire report. In addition, the Access Board requests comments on the impact of the committee's report on the safety of all persons using the facilities and on potential costs of the recommendations in the committee's report and how these costs could be minimized while accommodating safety.

**Sports Facilities (Pages 1–62)**[5]

*Field-of-Play (Pages 5–6)*

The sports facilities subcommittee examined field sports, court sports, rink sports, and a variety of other sports. Individuals with disabilities may participate in sports as spectators, players, coaches or assistants, or may be employees of sports facilities and should have access to all elements and spaces of the facilities. The subcommittee recommended that an accessible route be provided to the field-of-play. The subcommittee observed that in some sports, the field-of-play consists of grass, artificial turf, sand, soil, ice, or other materials which do not fully meet the ADAAG requirement that surfaces along accessible routes and in accessible spaces must be stable, firm and slip resistant. The subcommittee recommended that where requiring the playing field surface to be stable, firm and slip resistant would eliminate or substantially change the sport, an exception to this requirement should be provided for the field-of-play.

In some sports, the field-of-play may extend to the sideline area directly adjacent to the boundary of the playing field. For example, in baseball a player can chase a foul ball beyond the "within-bounds" area. The sports facilities subcommittee suggested that designated key accessible route locations could be safely incorporated into sideline or "out-of-bounds" areas; or temporary, removable surfaces could be used to provide access to these areas.

*Question 1:* What are other possible solutions for providing an accessible route to sideline or "out-of-bounds" areas used by coaches, press and others where the field-of-play may extend to or overlap these areas? Persons responding to this question are requested to provide information regarding the location, surface requirements, and width of an accessible route serving these areas.

[4] Some subcommittees borrowed the phrase "fundamentally alter the nature of the service, program, or activity" from the Department of Justice regulations to describe those areas where providing access could eliminate or change the recreation activity or experience. The Department of Justice uses this phrase or a variation of the phrase in its regulations to describe when public and private entities are relieved of the obligation to make reasonable modifications in policies, practices or procedures (28 CFR 35.130(b)(7) and 36.302(a)) and when public entities are relieved from providing program accessibility in existing facilities (28 CFR 35.150(a)(3)). Although the phrase does not apply to new construction and alterations, some subcommittees attempted to use the phrase by analogy when describing a few areas where providing access may not be practicable or needs to be viewed in light of the nature of the recreation experience.

[5] The relevant part of the committee's report is referenced after each heading and subheading.

*Pools (Pages 16–20)*

The sports facilities subcommittee also examined access to pools.[6] There are many different types of pools such as competition pools, lap pools, leisure or family pools, and wading or children's pools. Pools are found in a variety of settings from hotels and other places of transient lodging to public parks and community centers. The sports facilities subcommittee identified three means for providing access into the water: ramps, lifts, and transfer tiers. As discussed at pages 16–18 of the committee's report, each of these means accommodates varying capabilities of individuals with disabilities with no single means best for all users. For example, ramps can facilitate independence. However, ramps require transfer to an additional chair and raise concerns regarding buoyance and water resistance for individuals ascending and descending the ramp. Lift operation may require individuals with disabilities to seek assistance; and transfer tiers pose a higher level of physical challenge.

The sports facilities subcommittee recommended that one accessible means of entry into the water should be required and that a range of alternatives (ramps, lifts, or transfer tiers) should be allowed. The subcommittee further recommended that where pools exceed a certain size, two accessible means of entry into the water should be required. (The subcommittee did not recommend a specific size.) The subcommittee emphasized that any means of entry into the water should allow for individuals with disabilities to use pools independently and with dignity.

*Question 2:* Given the different types of pools and various means that individuals with disabilities use for entering the water, should a range of alternatives (ramps, lifts, or transfer tiers) be allowed for providing access into the water? If not, should specific means be required and others not permitted for certain types of pools? Should requirements be related to the size of the pools, with larger pools required to provide more than one means of entry into the water? If so, what size or other criteria should trigger the additional requirement? If specific means for entering the water are required, should technical specifications be developed for those means?

[6] The places of amusements subcommittee and outdoor developed areas subcommittee also examined access to pools. See pages 85–88 and 188–189 of the committee's report for those subcommittees' recommendations.

**Places of Amusement (Pages 63–88)**

*Amusement Rides (Pages 74–85)*

The places of amusement subcommittee examined access to amusement rides. As defined by the subcommittee, amusement ride systems consist of amusement devices which carry or move a person or persons on, around, over or through a fixed or restricted course or within a defined area for purpose of amusement or entertainment and includes related elements, facilities and systems. For new construction, the subcommittee recommended that, to the greatest extent possible, at least one wheelchair space be provided within the amusement ride system where the amusement device can accommodate a person seated in a wheelchair without changing the nature of the amusement ride system or experience. When an amusement device cannot accommodate a person seated in a wheelchair, the subcommittee recommended that, to the greatest extent possible, a means of transfer onto the amusement device be provided without changing the nature of the amusement ride system or device. The subcommittee drafted detailed recommended guidelines for accomplishing a transfer from a wheelchair to the amusement device.

The places of amusement subcommittee recommended that decisions regarding the type of access provided (roll-on or transfer) be made by designers on a ride-by-ride basis after considering a variety of factors, including seating space and configuration, ride speed, forces and accelerations during normal and emergency operation, riding posture and center of gravity, restraining systems, and safety of others.

*Question 3:* Should a percentage of rides in newly constructed places of amusement provide either roll-on or transfer access for individuals who use wheelchairs and other mobility aids? It is acceptable to permit some rides not to provide roll-on or transfer access and, if so, what should be the criteria for not providing access? In new construction, is it acceptable that the type of access provided (roll-on or transfer) be determined on a ride-by-ride basis? The Access Board is interested in any studies or other data that provide information on the dynamic effects of forces experienced on certain rides on individuals with disabilities.

*Carnivals and Fairs (Pages 73–74)*

The places of amusement subcommittee also examined access to amusement rides used in temporary places of amusement such as carnivals and fairs. These amusement rides are transported on trucks and trailers, and are set up and leveled at different sites for temporary events. Depending on the terrain, the distance from the ground to ride may vary from four to six feet. The subcommittee recommended that these amusement rides comply with the same requirements as amusement rides at permanent sites.

*Question 4:* Should amusement rides used in temporary places of amusement be addressed in the same manner as rides at permanent sites? The Access Board is interested in receiving information on ways to provide access to these amusement rides.

Carnivals and fairs may be held on partially improved or unimproved sites such as city parks, athletic fields, or agricultural fields that are not specifically designed for the event and that do not provide stable, firm and slip resistant surfaces required for an accessible route. The places of amusement subcommittee recommended that where, due to the temporary nature of the event, changes to topography or surface conditions would be inconsistent with the primary purpose of the site, temporary, removable surfaces be used to provide an accessible path to rides and other attractions.

*Question 5:* Should temporary places of amusement be required to meet all the provisions for an accessible route when held on partially improved or unimproved sites? If not, what provisions should be modified (e.g., stable, firm and slip resistant surface; slope; cross slope; width; accessible elements connected)? How should protruding objects such as tent stakes and lines be addressed?

**Play Settings (Pages 89–102)**

*Accessible Route (Pages 91–93)*

The play settings subcommittee examined issues related to providing access to play areas and equipment. Play settings vary greatly in size and may be found in schools, day care centers, fast food restaurants, amusement parks, and public parks. Play is an important social experience that occurs in many ways within a play area. Play settings often include play equipment such as slides, swings, ladders, sand play areas, and open areas for play. Children without disabilities have the opportunity to maneuver throughout play areas and to access their choice of play equipment. Designers have a unique challenge in providing children with disabilities the same access.

Designers usually provide resilient surfaces meeting the ASTM F1292 performance standard within the use zone of play equipment as a safety measure. (This is also called "the fall zone.") Some resilient surfaces such as sand and wood chips are not stable, firm and slip resistant and, thus, would not meet the requirements for an accessible route. The play settings subcommittee considered cost and maintenance issues related to various types of surfaces and recommended that an expanded accessible route which is a minimum of 60 inches wide connect accessible activities within the play area in order to promote social interaction and use of the play components. This accessible route would be stable, firm, slip resistant, safe to crawl on, and where within the use zone of equipment, resilient.

*Question 6:* Does the play subcommittee's recommendation for an expanded accessible route adequately address the need for access within play settings? Persons responding to this question should review pages 91–93 of the committee's report.

*Elevated Play Equipment (Pages 93–96)*

The play setting subcommittee identified ramps and transfer systems (transfer platforms, decked platforms, and berms or natural hills) as means for providing access to elevated play equipment. For larger composite play structures having 12 or more elevated play components (or 12 or more elevated play components at one site serving the same age group), the subcommittee recommended that both ramps and transfer systems should be required, and that each means access at least one-half of the elevated play components on the play structure. The subcommittee further recommended that one-half of the play components which are accessed by ramps should be required to be like or similar to those elevated play components that are not accessed by ramps. For smaller composite play structures having less than 12 elevated play components, the subcommittee recommended that transfer systems should be required to access at least one-half of the elevated play components, and that one-half of those play components be like or similar to the elevated play components that are not accessible.

*Question 7:* Should a requirement for ramp access, in addition to transfer systems, be based on the number of play components? If so, what number of play components should trigger a ramp requirement, in addition to transfer systems?

*Soft Contained Play Systems (Page 99)*

Soft contained play systems are relatively new and are comprised of fully enclosed, resilient play components that are designed so that children climb through and within the structure. Most incorporate play activities on several different levels. Some cover 3,000 square feet and are over 20 feet high. These play structures are found in amusement parks, connected with fast food restaurants, or as stand-alone facilities. The play settings subcommittee recommended that these play structures be accessible and provide integration, and noted that the ASTM F1536 committee is currently developing standards for them.

*Question 8:* Should soft contained play systems be subject to the same requirements as other play structures? The Access Board is interested in receiving information on how access can be provided to these play structures.

**Golf (Pages 103–118)**

*Accessible Route (Pages 108–112)*

Golf is played in the open air on courses that incorporate natural and constructed elements. An 18-hole golf course typically occupies more than 100 acres and slopes on fairways frequently exceed 1:20. Because the route of play is determined by where the ball lands, the golf subcommittee focused on providing players with a disability access to their ball without defining an accessible route through the green. The subcommittee based its recommendations on the premise that players with a disability will use a golf car or similar mobility aid to access their balls. The subcommittee recommended that at least one accessible teeing ground be provided on each hole. An accessible route would be required from the golf car path or parking area to the accessible teeing ground. Where continuous access onto the fairway is not possible because of natural barriers, access to the fairway would be required at maximum distances of every 75 yards from the golf car path, unless precluded by extreme terrain or environmental issues (wetlands and protected areas). The subcommittee recommended against providing access to hazards and bunkers on the grounds that doing so would substantially change the nature of the game. (Practice bunkers would be accessible.) An accessible route would be required to all putting greens from the golf car path or parking area. An accessible route would also be required from golf car paths or parking areas to toilet rooms, snack bars, weather shelters, and other amenities provided for players. The subcommittee also recommended that the playing area of the golf course be exempt from the requirement for stable, firm, and slip resistant surfaces.

*Question 9:* Do the golf subcommittee's recommendations adequately address accessible design for golf courses?

*Miniature Golf (Pages 115–117)*

The golf subcommittee also examined miniature golf courses. The subcommittee recommended that all holes on miniature golf courses be connected by an accessible route and that the entire playing surface of these courses be accessible, except for sloped surfaces where the ball cannot come to rest. Access would be required at starting points, end points, and to points in between where the ball may rest. The subcommittee also recommended that where obstacles such as concrete blocks, gates, and caves are placed on the playing surface to enhance difficulty or competition, an accessible path be provided to either side of the obstacle, or entrance and exit points be provided on both sides of the obstacle to allow players with disabilities to bypass the obstacle. Owners and operators of miniature golf courses have expressed concern about requiring the entire course to be accessible, especially courses developed on smaller sites which are often designed to rise sharply in elevation to increase the playing surface area.

*Question 10:* Are there conditions where a lesser degree of accessibility should be allowed for miniature golf courses? The Access Board is interested in receiving information on designs for providing access to miniature golf courses.

**Boating and Fishing Facilities (Pages 119–132)**

*Gangways (Pages 126–129)*

The boating and fishing facilities subcommittee examined a variety of facilities ranging from primitive fishing areas in national parks to highly developed, multi-use marinas in urban settings. The marine environment is dynamic and poses design challenges different from those encountered in a static, land-based environment. Bodies of water experience changing levels due to such factors as tides, seasonal changes, reservoir draw-downs, flooding, and dam releases. The subcommittee identified three options at pages 126–129 of the committee's report for providing access to gangway structures which connect to floating, boating and fishing facilities. The

subcommittee did not reach consensus on the options and encouraged public input and additional research.

*Question 11:* Which option most adequately addresses issues affecting access to floating, boating and fishing facilities? Are there other solutions that are not reflected in the recommended options? Persons responding to this question should review pages 126–129 of the committee's report.

*Boat Slips (Pages 125–126)*

The boating and fishing facilities subcommittee also recommended scoping provisions and technical specifications for accessible boat slips. The subcommittee recommended that the number of accessible boating slips be based on the scoping provision for accessible parking spaces for motor vehicles (ADAAG 4.1.2(5)).

*Question 12:* Should the scoping provision for accessible parking spaces for motor vehicles be applied to boat slips? Should other factors be considered such as whether the boat slips are leased on a long-term or a short-term basis?

**Outdoor Developed Areas (Pages 133–202)**

*Outdoor Recreation Environments (Pages 133–190)*

Over the past decade, the National Park Service, USDA Forest Service, various State and local government agencies, and private entities have examined issues related to providing access to outdoor recreation environments. The outdoor developed areas subcommittee built on these earlier efforts. The committee based its work on the premise that there is a spectrum of recreation settings that occur in the outdoor environment and identified four different settings based on the degree of development and modifications to the natural environment. The settings are: the highly developed or urban; the moderately developed or natural; the minimally developed or back-country; and the undeveloped or primitive. The subcommittee attempted to develop recommendations that provide the highest degree of access practicable and feasible, commensurate with the amount of development, while at the same time preserving and protecting the fundamental nature of the various elements of the outdoor recreation environment. The subcommittee outlined three degrees of accessibility (easier, moderate, and difficult) that related to the first three settings with the degree of access decreasing as the amount of development decreases. No guidelines were recommended for undeveloped or primitive settings.

The outdoor developed areas subcommittee attempted to define a process by which decisions can be made regarding the degree of access which should be provided in different outdoor recreation environments. The subcommittee proposed two approaches for determining the degree of access to be provided. The first approach is set out at pages 153–156 (outdoor recreation access routes) and pages 166–170 (recreation trails) of the committee's report and reaches decisions regarding the degree of access to be provided through analysis of the recreation setting, the condition of the natural environment, the amount of structural modification, the recreation experience, and consultation with individuals with disabilities. The second approach is set out at pages 157–159 (outdoor recreation access routes) and pages 170–171 (recreation trails) of the committee's report and begins by requiring a certain degree of accessibility and proposes a series of exceptions that allow the other degrees of accessibility for a variety of conditions including severe elevations, geologic features, historic significance, or the specific purpose of the trail. Under the second approach, an entity would also have to consult with individuals with disabilities when making an exception and document the decision. Both approaches are intended to result in the highest degree of access practicable and feasible for the setting.

*Question 13:* Which approach is more likely to achieve an acceptable level of access? Can these approaches be applied to all outdoor recreation environments regardless of size, location, entity, or other factors? Are there other alternatives that would facilitate application of accessibility guidelines to outdoor recreation environments? Persons responding to this question should review pages 153–159 and 166–171 of the committee's report.

*Beaches (Pages 186–187)*

The outdoor developed areas subcommittee also examined beach facilities and recommended that an accessible route be provided to a point 36 inches beyond the water's edge at high tide. The subcommittee stated that a stable, firm and slip resistant surface may be accomplished by using permanent materials (e.g., concrete, wood, or plastic decking); temporary, removable materials (e.g., mats or mesh) during daylight hours; or a combination of both. Water level changes due to tides, shifting shorelines, and erosion may impact on potential solutions.

*Question 14:* Should an accessible route be required to the water? If so, where should it be located? Should a temporary accessible route be allowed where a permanent one is not practicable or feasible?

*Snow Facilities (Pages 190–201)*

The outdoor developed areas subcommittee also examined skiing and a variety of other snow activities. The subcommittee recommended that accessible parking spaces be located a maximum of 300 feet from base area facilities or other snow area activities, unless an accessible transportation option is provided. The subcommittee also proposed the concept of a snow access route. The subcommittee noted that the ANSI B77.1 committee is conducting research on accessibility requirements for lifts and has recommended that guidelines for lifts be reserved pending the research, except for loading and unloading areas and lift corrals and waiting areas.

*Question 15:* What are the critical access issues for individuals with disabilities in snow facilities? The Access Board is interested in receiving additional information on ski lift access.

**Other Facility Types**

*Question 16:* Are there other types of recreation facilities and outdoor developed areas that are not addressed in the committee's report? If so, the Access Board is interested in receiving information on providing access to those facilities and areas.

The Recreation Access Advisory Committee has performed an invaluable public service by gathering information on diverse types of recreation facilities and outdoor developed areas; involving other interested persons in its work; and attempting to build consensus on possible solutions for providing access to these facilities and areas. The Access Board wants to encourage greater public participation as it develops a notice of proposed rulemaking establishing accessibility guidelines for newly constructed and altered recreation facilities and outdoor developed areas and invites comments on the committee's report. The comments will be considered along with the committee's report as the Access Board develops the notice of proposed rulemaking.

Authorized by vote of the Access Board on July 13, 1994.

**Judith E. Heumann,**

*Chairperson, Architectural and Transportation Barriers Compliance Board.*

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September 21, 1994

Part V

# Department of Transportation

Research and Special Programs Administration

49 CFR Parts 172 and 174

Performance-Oriented Packaging Standards; Technical Revisions; Final Rule

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 172 and 174**

**[Docket No. HM–181F; Amdt Nos. 172–137 and 174–77]**

**RIN 2137–AB89**

## Performance-Oriented Packaging Standards; Technical Revisions; Final Rule

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule corrects two errors and clarifies a third matter in a September 24, 1993 final rule published under Docket HM–181F [58 FR 50224], which adopted changes to the regulations based on petitions for rulemaking and RSPA's own initiative to help clarify certain aspects of a final rule issued on December 21, 1990. The intended effect of this final rule is to promote accuracy through certain technical revisions. This rule will not impose any new requirements on persons subject to the Hazardous Materials Regulations.

**EFFECTIVE DATE:** The effective date of this final rule is September 21, 1994.

**FOR FURTHER INFORMATION CONTACT:** Beth Romo, telephone (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, Washington DC, 20590–0001 or Edward W. Pritchard, telephone (202) 366–0510, Office of Safety Enforcement, Federal Railroad Administration, Washington DC, 20590–0001.

**SUPPLEMENTARY INFORMATION:**

### Background

The Research and Special Programs Administration (RSPA) published a final rule on December 21, 1990 (Docket HM–181; 55 FR 52402), which comprehensively revised the Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180) with respect to hazard communication, classification, and packaging requirements based on the United Nations Recommendations on the Transport of Dangerous Goods. A document responding to petitions for reconsideration and containing editorial and substantive revisions to the HM–181 final rule was published on December 20, 1991 (56 FR 66124). On October 1, 1992, under Docket HM–181 and HM–189, RSPA issued additional editorial amendments to the December 21, 1990 final rule (57 FR 45446).

A petitioner to the October 1992 final rule stated Special Provision B65 in 49 CFR 172.102 was inconsistent because the first sentence specified only a DOT 105A500W tank car, while the second sentence pertained to the remarking of a DOT 105J500W tank car to a DOT 105J300W tank car. RSPA revised this special provision in the September 24, 1993 final rule to clarify that the DOT 105A500W tank car is the only authorized tank car for hydrocyanic acid, aqueous solutions and hydrogen cyanide, anhydrous stabilized [58 FR 50235]. However, the second sentence incorrectly referenced a DOT 105J tank car. Therefore, in this final rule, RSPA is correcting the second sentence in Special Provision B65 to prescribe the remarking of a DOT105A500W tank car to a DOT 105A300W tank car.

One rail carrier stated its belief that the regulations adopted under the December 21, 1990 final rule allowed rail cars moving under their own momentum to strike placarded flatcars, including flatcars loaded with placarded transport vehicles, freight containers, and bulk packagings. In order to clarify this matter, RSPA issued a correction in the Docket HM–181F final rule that amended the rail car handling requirements in § 174.83(b) [58 FR 50237]. RSPA explained that the change was being made so as not to allow an over-speed impact of any rail car transporting a Division 1.1 or 1.2 explosive, a Division 2.1 flammable gas (in a class DOT 113 tank car), or a Division 2.3 poisonous gas. Additionally, RSPA explained that in order to clarify these handling requirements, § 174.83(b) was being restructured to reflect the regulatory language that existed prior to December 21, 1990.

After publication of the September 24, 1993 final rule, several commenters noted that § 174.83(b) prohibited rail cars containing all Division 2.3 poisonous gases from moving under their own momentum, as opposed to only those containing Division 2.3 Hazard Zone A materials. Commenters further noted that the rule did not prohibit the movement of rail cars under their own momentum for Division 6.1 Packing Group I Hazard Zone A materials. A notice of proposed rulemaking published on July 12, 1993, under Docket HM–181F (58 FR 37612), proposed revisions to § 174.83(b) applicable to Division 2.3 Hazard Zone A and Division 6.1 Packing Group I Hazard Zone A materials; however, in the final rule, paragraph (b) was rewritten for clarity and did not reflect accurately the applicable categories. Therefore, this final rule amends § 174.83(b) to correct these omissions.

RSPA also is amending § 174.83(b) to clarify that handling restrictions apply only to loaded rail cars transporting a Division 1.1 or 1.2 explosive, a Division 2.3 Hazard Zone A gas or a Division 6.1 PG I Hazard Zone A material. The handling restrictions will still apply to all class DOT 113 tank cars (both loaded tank cars and those containing a residue) that are used to transport a Division 2.1 material, because of the design of the inner tank supporting system (see §§ 172.203(g)(2), 179.400–13, and 179.400–26(d)).

### Summary of Regulatory Changes by Section

*Section 172.102.* Special Provision B65 is amended by changing the tank car specifications referenced in the second sentence to read "DOT 105A500W" and "DOT 105A300W", respectively.

*Section 174.83.* Paragraph (b) introductory text is revised to clarify handling restrictions and to prohibit rail cars transporting a Division 1.1 or 1.2 explosive, a Division 2.1 flammable gas (in a class DOT 113 tank car), a Division 2.3 Hazard Zone A gas or a Division 6.1 PG I Hazard Zone A material from moving under their own momentum, from being coupled into with more force than is necessary to complete the coupling, or from being struck by any other rail car moving under its own momentum.

### Changed Legal Citations

On July 5, 1994, President Clinton signed H.R. 1758—now Public Law (Pub. L.) 103–272—"a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation," including the HMTA. Public Law 103–272, 108 Stat. 745 (1994). The purpose of Public Law 103–272 was to "clean-up" related Federal transportation laws and restate them in a format and language intended to be easier to understand without changing substantive content. Consequently, Public Law 103–272 revised, enacted and codified provisions of the Federal hazardous materials transportation law, now found at 49 U.S.C. 5101–5127. At the same time, Public Law 103–272 also repealed the original statute.

The legal citations that appear in this document reflect the non-substantive changes made by Public Law 103–272.

**Regulatory Analysis and Notices**

*A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). The original regulatory evaluation has been reexamined but not modified. The changes made under this final rule provide clarification and will not result in an adverse economic impact on industry.

*B. Executive Order 12612*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Section 5125(b)(1) of Title 49 U.S.C. expressly preempts State, local, and Indian tribe requirements on certain covered subjects unless they are substantively the same as the Federal requirements. Covered subjects are:

(A) The designation, description, and classification of hazardous material;

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(E) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subjects under paragraph (B) above and, therefore, preempts State, local, or Indian tribe requirements not meeting the "substantively the same" standard. Section 5125(b)(7) of Title 49 U.S.C. provides that if DOT issues a regulation concerning any of the covered subjects, after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements will be December 21, 1994. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

*C. Regulatory Flexibility Act*

This final rule corrects two errors and clarifies an existing requirement in the Hazardous Materials Regulations concerning operational requirements for rail carriers. I certify this rule will not have a significant economic impact on a substantial number of small entities.

*D. Paperwork Reduction Act*

There are no new information collection requirements in this final rule.

*E. Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects**

*49 CFR Part 172*

Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

*49 CFR Part 174*

Hazardous materials transportation, Radioactive materials, Railroad safety.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

## PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

1. The parenthetical authorities at the end of any sections in part 172 are removed and the authority citation is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 172.102, in paragraph (c)(3), Special Provision B65 is amended by revising the second sentence to read as follows:

**§ 172.102 Special provisions**

* * * * *

(c) * * *

(3) * * *

B65 * * * Each DOT 105A500W tank car must be marked as DOT 105A300W. * * *

* * * * *

## PART 174—CARRIAGE BY RAIL

3. The parenthetical authorities at the end of any sections in part 174 are removed and the authority citation is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

4. In § 174.83, the introductory text in paragraph (b) is revised to read as follows:

**§ 174.83 Switching placarded rail cars, transport vehicles, freight containers, and bulk packagings.**

* * * * *

(b) Any loaded rail car placarded for a Division 1.1 or Division 1.2 explosive, a Division 2.3 Hazard Zone A gas or a Division 6.1 PG I Hazard Zone A material, or any Class DOT–113 tank car placarded for a Division 2.1 flammable gas may not be:

* * * * *

Issued in Washington, DC on September 14, 1994, under authority delegated in 49 CFR part 1.

**D.K. Sharma,**

*Administrator, Research and Special Programs Administration.*

[FR Doc. 94–23300 Filed 9–20–94; 8:45 am]

BILLING CODE 4910–13–P

federal register

Wednesday
September 21, 1994

Part VI

# The President

Presidential Determination No. 94–47—Amendment to Presidential Determination No. 94–31

Presidential Determination No. 94–48—Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as Amended

Federal Register
Vol. 59, No. 182
Wednesday, September 21, 1994

# Presidential Documents

Title 3—

The President

## Presidential Determination No. 94–47 of September 9, 1994

## Amendment to Presidential Determination 94–31

**Memorandum for the Secretary of State**

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that funds previously made available from the Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of Haitian migrants be made available also for the urgent and unexpected needs of Cuban migrants, effective September 1, 1994. This determination amends Presidential Determination 94–31 of July 1, 1994, to permit the use of the funds authorized by that determination for Cuban as well as Haitian migrants.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this determination in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
*Washington, September 9, 1994.*

[FR Doc. 94–23529
Filed 9–19–94; 4:24 pm]
Billing code 4710–10–M

# Presidential Documents

**Presidential Determination No. 94–48 of September 9, 1994**

## Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as Amended

**Memorandum for the Secretary of State**

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(b)(2), I hereby designate persons fleeing from or repatriating to Cuba and Haiti as qualifying for assistance and determine that such assistance will contribute to the foreign policy interests of the United States.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this determination in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
*Washington, September 9, 1994.*

[FR Doc. 94–23530
Filed 9–19–94; 4:25 pm]
Billing code 4710–10–M

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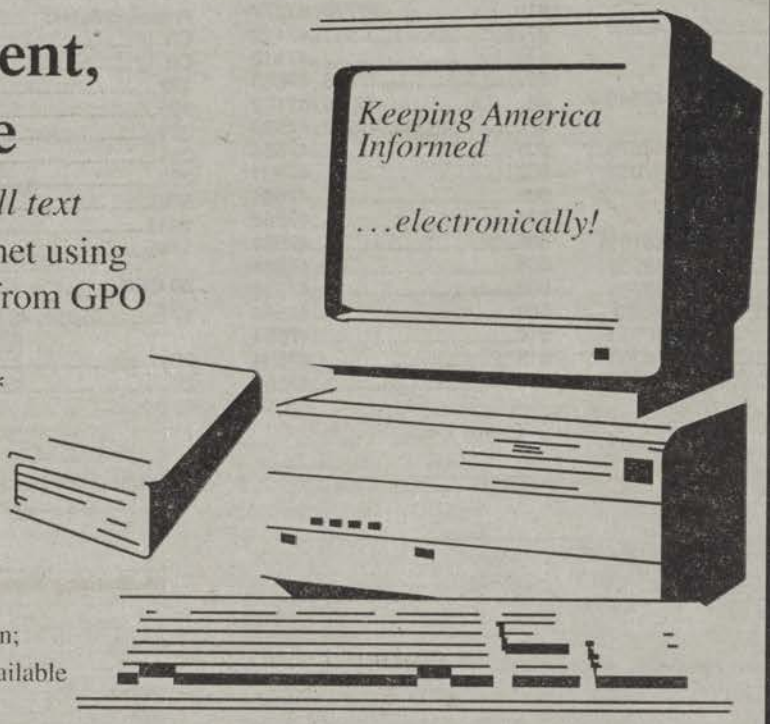


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**103d Congress, 2d Session, 1994**

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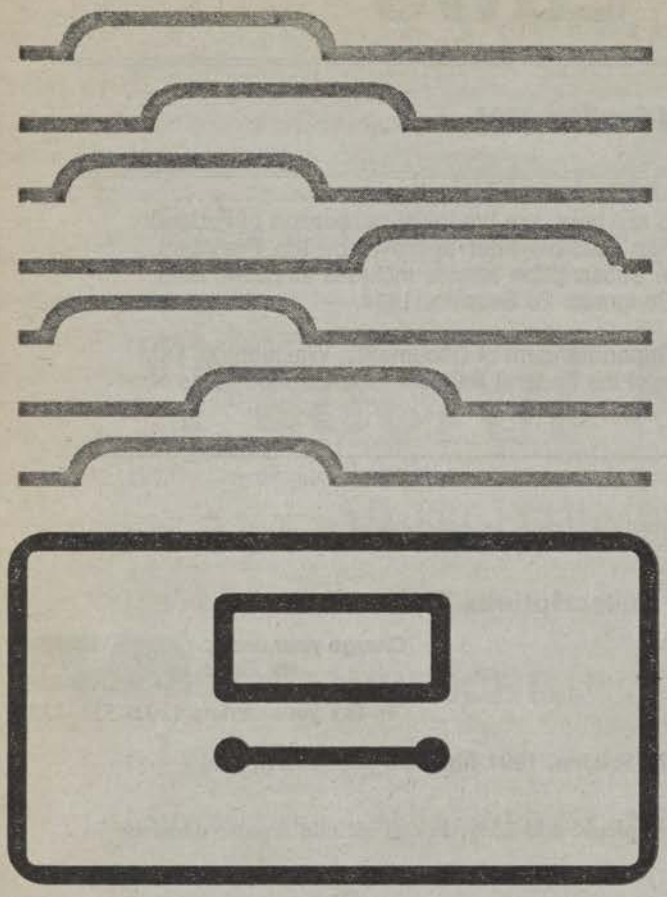

# Guide to Record Retention Requirements

## in the Code of Federal Regulations (CFR)

Revised January 1, 1994

The GUIDE is a useful reference tool, compiled from agency regulations, designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

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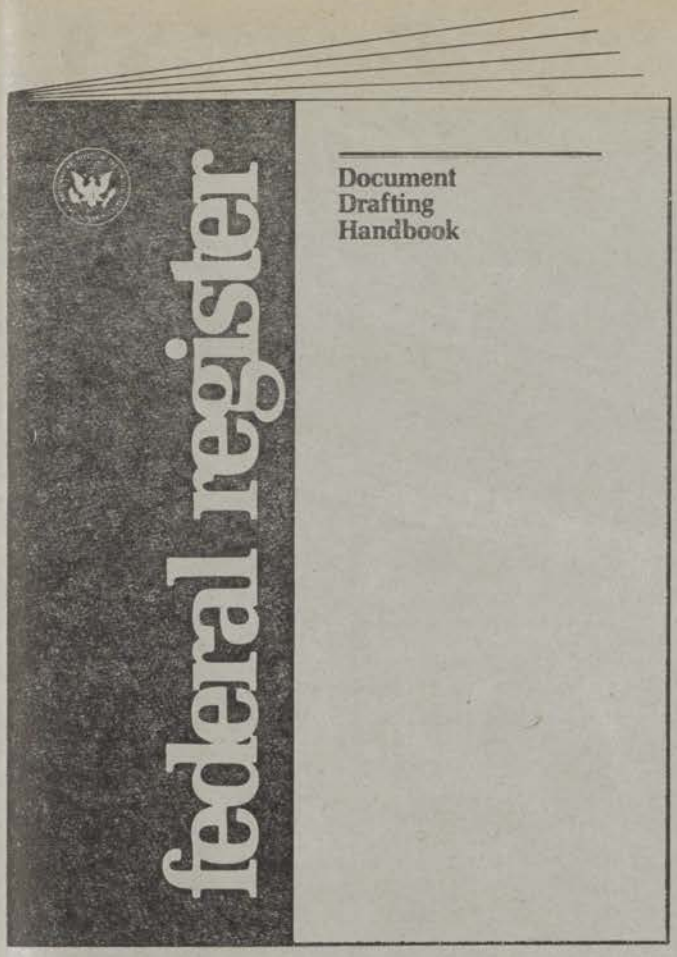


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