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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 95–048–1]

Witchweed; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the list of suppressive areas under the witchweed quarantine and regulations by adding and removing areas in North Carolina and South Carolina. These changes affect 11 counties in North Carolina and 4 counties in South Carolina. These actions are necessary in order to impose certain restrictions and to relieve unneccessary restrictions on the interstate movement of regulated articles to help prevent the spread of witchweed.

DATES: Interim rule effective July 31, 1995. Consideration will be given only to comments received on or before October 3, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–048–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–048–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Mario Rodriguez, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8372.

SUPPLEMENTARY INFORMATION:

Background

Witchweed (*Striga* spp.), a parasitic plant that feeds off the roots of its host, causes degeneration of corn, sorghum, and other grassy crops. It is found in the United States only in parts of North Carolina and South Carolina.

The witchweed quarantine and regulations contained in 7 CFR 301.80 through 301.80–10 (referred to below as the regulations) quarantine the States of North Carolina and South Carolina and restrict the interstate movement of certain witchweed hosts in the quarantined States for the purpose of preventing the spread of witchweed.

Regulated areas for witchweed are designated as either suppressive areas or generally infested areas. Restrictions are imposed on the interstate movement of regulated articles from both types of areas in order to prevent the movement of witchweed into noninfested areas. However, the eradication of witchweed is undertaken as an objective only in areas designated as suppressive areas. Currently, there are no areas designated as generally infested areas.

Designation of Areas as Suppressive Areas

We are amending § 301.80–2a of the regulations, which lists generally infested and suppressive areas, by adding areas in Greene, Pender, Pitt, Sampson, and Wayne Counties, North Carolina, and areas in Dillon County, South Carolina to the list of suppressive areas.

The rule portion of this document lists the suppressive areas for each county. Nonfarm areas, if any, are listed first; farms are then listed alphabetically.

We are taking this action because surveys conducted by the United States Department of Agriculture (USDA) and State agencies of North Carolina and South Carolina have established that these areas meet one or more of the following conditions specified in § 301.80–2(a) of the regulations:

1. Witchweed has been found in these areas.

2. There is reason to believe that witchweed is present in these areas.

3. It is deemed necessary to regulate these areas because of their proximity to infestation.

4. These areas cannot be separated for quarantine enforcement purposes from infested localities.

Designation of these areas as regulated areas imposes controls on the movement of regulated articles from these areas and prevents the spread of witchweed to noninfested areas.

Copies of the surveys may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Removal of Areas From List of Regulated Areas

We are also amending § 301.80–2a by removing areas in Cumberland, Duplin, Greene, Harnett, Pender, and Wayne Counties, North Carolina, and Berkeley, Dillon, and Horry Counties, South Carolina from the list of suppressive areas. As a result of this action, there are no longer any regulated areas in Harnett County, North Carolina, or in Berkeley County, South Carolina.

We are taking this action because we have determined that witchweed no longer occurs in these areas; therefore, there is no longer a basis for listing these areas as suppressive areas for the purpose of preventing the spread of witchweed. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to control the spread of witchweed to noninfested areas of the United States by adding specified areas to the list of suppressive areas in North Carolina and South Carolina. Also, where witchweed no longer occurs, immediate action is necessary to relieve unnecessary restrictions on the interstate movement of regulated articles.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication

of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Witchweed (*Striga* spp.) is a parasitic plant that feeds off the roots of its host, causing degeneration of corn, sorghum, and other grassy crops. Witchweed is found only in the United States, in parts of North Carolina and South Carolina.

The witchweed regulations quarantine the States of North Carolina and South Carolina and restrict the interstate movement of certain witchweed hosts in the quarantined States for the purpose of preventing the spread of witchweed into noninfested areas of the United States. We are amending the regulations by adding and removing regulated areas in North Carolina and South Carolina.

This interim rule affects the interstate movement of regulated articles from specified areas in North Carolina and South Carolina. We have determined that approximately 280,900 small entities move regulated articles interstate from North Carolina and South Carolina. This rule affects only 51 of these entities, however, by removing 41 entities from regulation and by adding 10 new entities to the list of suppressive areas.

We have determined that the 41 deregulated entities will each realize an annual savings of $60 to $70 in regulatory and control costs. We estimate that the rule will cost each of the 10 newly-regulated entities about $60 annually.

In the instances where this interim rule removes specified areas from the list of suppressive areas, this rule will enable freer movement of goods and services across State lines. Consumers will benefit from lower prices and better access to products from the list of suppressive areas that we removed. Overall, we expect that this rule will enhance the ability of small entities to market products interstate.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.80–2a [Amended]

2. In § 301.80–2a, the list of suppressive areas is amended by removing the following areas in Cumberland, Duplin, Greene, Harnett, Pender, and Wayne Counties, North Carolina.

a. In Cumberland County, North Carolina, The Elliott, W.H., farm; The Gerald, Rufus, farm; The Jackson, J.T., farm; The Lockamy, Earl, farm; The McLaurin, Greg, farm; The McMillan, Vander, farm; The Melvin, Edith, farm; The Pruitt, K.D., farm; The Roberts, Christine Dawson, farm; The Smith, Larry Don, farm; and The Vann, W.E., farm.

b. In Duplin County, North Carolina, The Hamilton, John, farm.

c. In Greene County, North Carolina, The Carmon, James E., farm; The Edwards, Joe E., farm; The Nethercutt, Lawrence, farm; and The Wilson, Sudie, farm.

d. Harnett County, North Carolina, the entire county.

e. In Pender County, North Carolina, The Flynn, B.S., farm; The Henry, Mary E., farm; The Malloy, Pete, No. 1 farm; The Malloy, Pete, No. 2 farm; The Marshall, Milvin, farm; The Salomon, Gwendolyn S., farm; The Taylor, Bill, farm.

f. In Wayne County, North Carolina, The Sasser, Rosa, farm.

3. In § 301.80–2a, the list of suppressive areas is amended by removing the following areas in Berkeley and Dillon Counties, South Carolina.

a. Berkeley County, South Carolina, the entire county.

b. In Dillon County, South Carolina, The Church, Emerson, farm; The Elvington, James C., farm; The Fore, Ernest, farm; The Fore, John, farm; and The Smith, A.C., farm.

4. In § 301.80–2a, the list of suppressive areas in Horry County, South Carolina, is amended as follows:

a. By revising the second undesignated paragraph of the current description of Horry County, South Carolina, to read as set forth below.

b. By removing the following areas: The Cox, Velma, farm; The Holmes, Marie T., farm; The Inman, Rosetta, farm; The Royals, Lathan, farm; The Stevens, Cora G., farm; The Thomas, James D., farm; The Todd, Mack, farm; and The Vaugh, Ruth, farm.

§ 301.80–2a Regulated areas; generally infested and suppressive areas.

* * * * *

SOUTH CAROLINA

(1) * * *

(2) *Suppressive areas.*

* * * * *

Horry County.

* * * * *

That area bounded by a line beginning at the junction of U.S. Highway 19, State Primary Highway 91, and State Primary Highway 90, then east along highway 90 to its junction with State Secondary Highway 1029, then south along highway 1029 to its junction with a dirt road known as the Telephone Road, then extending northwest along a line to the beginning of the south branch of Jones Big Swamp, then northerly along Jones Big Swamp to its junction with State Primary Highway 90, then east along highway 90 to the south branch of Mills Swamp.

* * * * *

5. In § 301.80–2a, the list of suppressive areas is amended as follows:

a. By adding, in alphabetical order, areas in Greene, Pender, Pitt, Sampson, and Wayne Counties, North Carolina,

and Dillon County, South Carolina, as set forth below.

b. By revising the entire descriptions of the infested areas for Sampson County, North Carolina, and Dillon County, South Carolina, as set forth below.

§ 301.80–2a Regulated areas; generally infested and suppressive areas.

* * * * *

NORTH CAROLINA

(1) * * *

(2) *Suppressive areas.*

* * * * *

Greene County.

* * * * *

The Lane, Wilbert, farm located on the east side of State Secondary Road 1419 and 0.3 mile northeast of its junction with State Secondary Road 1418.

* * * * *

Pender County.

* * * * *

The Kea, Leo, farm located 0.3 mile east of State Secondary Road 1105 and 1.2 miles south of its intersection with State Secondary Road 1104.

* * * * *

The McCallister, Mary, farm located 0.2 mile east of State Secondary Road 1105 and 1.1 miles south of its intersection with State Secondary Road 1104.

* * * * *

The Squires, Nelson, farm located on the south side of State Secondary Road 1103 and 1.5 miles south, southeast of the junction of this road with State Secondary Road 1104.

* * * * *

Pitt County.

* * * * *

The Garris, Bruce, farm located 0.1 mile south of the intersection of State Secondary Road 1916 and State Highway 118 and 0.2 mile east of the intersection of State Secondary Road 118 with a field road.

* * * * *

Sampson County. That area bounded by a line beginning at a point where State Secondary Road 1927 intersects the Sampson-Duplin County line, then southerly and easterly along this county line to its junction with the Sampson-Pender County line, then southwesterly along this county line to its junction with the Sampson-Bladen County line, then northwesterly along this county line to its junction with the Sampson-Cumberland County line, then northwesterly, north, and northeast along this county line to its junction with the Sampson-Harnett County line, then easterly along this county line to its junction with the Sampson-Johnston County line, then southeast along this county line to its intersection with North Carolina Highway 242, then south along this highway to its junction with U.S. Highway 421, then southeast along this highway to its intersection with U.S. Highway 701, then north along this highway to its junction with North Carolina Highway 403, then east along this highway to its junction with State Secondary Road 1919, then east along this highway to its intersection with State Secondary Road 1909, then southeast along this road to its intersection with State Secondary Road 1004, then southeast along this road to its junction with State Secondary Road 1911, then southeasterly along this road to its junction with State Secondary Road 1927, then southerly along this road to the point of beginning.

The Hobbs, Ed, farm located 0.7 mile south of State Secondary Road 1736 and 1 mile south of its intersection with State Secondary Road 1731.

The Pate, Ray, farm located on the west side of State Secondary Road 1738 and 0.6 mile southeast of its intersection with State Secondary Road 1940.

The Strickland, Edgebert, farm located on the north side of State Highway 421 and 1 mile east of its intersection with State Secondary Road 1703.

Wayne County. The Dunn, Dale, farm located on the west side of State Secondary Road 1009 and 0.6 mile north of its intersection with State Secondary Road 1101.

* * * * *

SOUTH CAROLINA

(1) * * *

(2) *Suppressive areas.*

Dillon County. That area bounded by a line beginning at a point where State Secondary Highway 22 intersects the South Carolina-North Carolina state line and extending south along said highway 22 to its junction with State Secondary Highway 45, then southwest along said Highway 45 to its intersection with the Little Pee Dee River, then northerly along said river to its intersection with Interstate 95, then southwest along said I–95 to its intersection with Reedy Creek, then northwest along Reedy Creek to its intersection with the Dillon-Marlboro County line, then northeast along said county line to its junction with the South Carolina-North Carolina state line, then southeast along said state line to the point of beginning.

* * * * *

The Wise, Wilbur, farm located on the south side of a field road and 0.15 mile southeast of the junction of the road with State Secondary Road 626 and 0.55 mile southwest of the intersection of State Secondary Road 625 with State Highway 38.

* * * * *

Done in Washington, DC, this 31st day of July 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–19180 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV95–989–3FR]

Raisins Produced From Grapes Grown in California; Change of Desirable Carryout Used in Computing Trade Demand

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the desirable carryout levels which are used in computing the yearly trade demand for California raisins. The trade demand is used to help determine the volume regulation percentages for each crop year, if necessary. The desirable carryout is being reduced from the current two and one-half months of shipments to two and one-fourth months of shipments during the 1995–96 crop year and to two months of shipments in subsequent crop years. The Raisin Administrative Committee (Committee), which is responsible for local administration of the Federal marketing order, believes that the current desirable carryout level has contributed to excessive supplies of marketable tonnage early in the crop year. This rule is expected to moderate the oversupply of California raisins early in the crop year, thus stabilizing the market conditions for producers and handlers.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Mark Hessel, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, or fax (209) 487–5906; or Valerie L. Emmer, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 205–2829, or fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 989 (7 CFR Part 989), as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule will reduce the desirable carryout for the 1995–96 crop year, beginning August 1, 1995, through July 31, 1996, and for subsequent crop years. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the marketing order and approximately 4,500 producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts (from all sources) are less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. No more than eight handlers and a majority of producers of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining eight handlers have sales less than $5,000,000, excluding receipts from any other sources.

This final rule changes section 989.154 of the administrative rules and regulations of the raisin marketing order. The Committee recommended by a vote of 31 to 15 at its April 28, 1995, meeting, to adjust the desirable carryout level in section 989.154 from the current two and one-half months of shipments to two and one-fourth months of shipments during the 1995–96 crop year and to two months of shipments in subsequent crop years. The crop year includes the 12-month period August 1 through July 31.

The desirable carryout level is the amount of tonnage from the prior crop year needed during the first part of the succeeding crop year to meet market needs, before new crop raisins are harvested and available for market. Currently, section 989.154 provides that the desirable carryout levels shall be equal to the shipments of free tonnage to all outlets for each varietal type during the months of August, September, and one-half of the total shipments for the month of October of the prior crop year.

The desirable carryout figure is used in marketing policy calculations to determine trade demand. The trade demand is 90 percent of prior year's shipments, adjusted by the carryin and desirable carryout. The trade demand is then used to help determine the volume regulation percentages for each crop year, if necessary.

Beginning in the 1991–92 crop year the desirable carryout was reduced from three months of shipments to two and one-half months of shipments. It was determined that the use of the three month desirable carryout level resulted in excessive supplies of marketable tonnage early in the season.

The Committee has used the two and one-half month desirable carryout figure for four crop years and has determined that the use of this figure has also contributed to an excessive supply of free tonnage at the beginning of the marketing season. A majority of the Committee members believe that this causes unstable market conditions during the early part of the crop year.

To moderate the oversupply of marketable raisin tonnage early in the season, the Committee recommended that the desirable carryout levels be revised from two and one-half months of the prior year's shipments to two and one-fourth months of the prior year's shipments for the 1995–96 crop year and to two months of the prior year's shipments for subsequent crop years.

The change in the desirable carryout levels reduces the trade demand and the free tonnage percentage, and makes less free tonnage available to handlers for immediate use. However, handlers will still be provided an opportunity to increase their inventories, if necessary, by purchasing raisins from the reserve pool under order-mandated 10 plus 10 offers during November and other releases of reserve pool raisins available under the marketing order. The 10 plus 10 offers are two simultaneous offers of reserve pool raisins which are made available to handlers each season. For each such offer, a quantity of raisins equal to 10 percent of the prior year's shipments is made available for free use. Although this final rule tends to tighten the supply of raisins early in the season, handlers will still have the opportunity to obtain additional supplies to increase their carryouts from the 10 plus 10 offers.

This rule is intended to stabilize the early season raisin market. Bringing early season supplies more in line with market needs is expected to stabilize market prices. This price stabilization should make raisin buyers less likely to postpone their purchases. Thus, decreasing the desirable carryout could strengthen the market and increase shipments, which would benefit raisin producers and handlers.

One alternative that was discussed by the Committee prior to recommending the change was to immediately set the desirable carryout level at two months of the prior year's shipments. It was determined that this was too rapid an adjustment and that first setting the desirable carryout levels at two and one-quarter months for the 1995–96 season and two months in subsequent crop years would be a more prudent approach.

Another alternative considered was setting the desirable carryout at a fixed tonnage. However, this alternative does not allow the desirable carryout to fluctuate with changing market conditions from year to year.

Those voting in opposition to the recommendation to reduce the desirable

carryout level believed that the marketing order should not further restrict supplies during the early part of the crop year. However, the following table shows that adequate supplies of Natural (sun-dried) Seedless raisins have been available early in the crop year to meet demand. Natural (sun-dried) Seedless raisins represent about 90 percent of all raisins produced in California. The other two varieties which had reserve pools for the 1994–95 crop year, Zante Currant raisins and Other Seedless raisins, had carryins far exceeding the annual trade demand. ''Carryin'' is synonymous with the ''carryout'' of the preceding crop year. All figures are in natural condition tons.

[In tons]

Crop year	Desirable carryin (Aug, Sept & ½ Oct shipments)	Physical carryin	Aug/Sept shipments
1994–95	84,671	92,248	64,374
1993–94	81,867	93,752	67,784
1992–93	82,591	115,440	65,495
1991–92	84,541	109,306	65,613

The desirable carryin is set to meet the demand for the early part of the crop year (August and September) before the new crop becomes available. The actual physical carryin has far exceeded the desirable carryin and has resulted in an oversupply of free tonnage during the early part of the crop year. The reduction in desirable carryout contributes to correcting the problem by adjusting the free tonnage market supply, which brings it more in line with demand.

The desirable carryout levels that are established by this rule apply uniformly to all handlers in the industry, whether small or large, and there will be no known additional costs incurred by small handlers. The stabilizing effects of the revised desirable carryout levels impact both small and large handlers positively by helping them maintain and expand markets.

In the event that the prior year's shipments are limited because of crop conditions, a proviso in section 989.154 allows the committee to select the total shipments during the months of August, September and one-half of the total shipments for October during one of the three years preceding the prior crop year. Consistent with the need to reduce early season supplies, this rule makes a corresponding revision to this proviso, by changing the total shipments from August, September, and one-half of the total shipments for October to the total shipments from August and September only.

The proposed rule concerning this action was published in the June 21, 1995, **Federal Register** (60 FR 32280), with a 15-day comment period ending July 6, 1995. Four comments were received, three in favor and the other in opposition to the proposed rule.

The three comments in favor of the proposed rule were submitted by Mr. Vaughn Koligian, General Manager of the Raisin Bargaining Association (RBA) and a raisin grower; Mr. Gerald Chooljian of Del Rey Packing, a raisin handler and grower; and Mr. Ernest A. Bedrosian of National Raisin Company and EKK Bedrosian Farms, a raisin handler and grower. The RBA represents approximately 2,000 raisin growers. Mr. Koligian further stated that 15 raisin packers, including Mr. Chooljian and Mr. Bedrosian, support the change in the desirable carryout level as set forth in the proposed rule. The three comments in favor of implementing the change set forth in the proposed rule reiterate the justification specified in the proposed rule.

The comment in opposition to the proposed rule was submitted by Mr. Barry F. Kriebel, President of Sun-Maid Growers of California (Sun-Maid), an agricultural marketing cooperative comprised of approximately 1,300 growers.

Mr. Kriebel claims that the reduction of the desirable carryout levels would create an artificial shortage and drive up consumer prices. He presents as evidence, a table showing that the field prices for Natural (sun-dried) Seedless raisins increased dramatically from 1984 until the desirable carryout level was changed from 60,000 tons for Natural (sun-dried) Seedless raisins to three months of shipments (103,090 tons) beginning in the 1989–90 crop year. Mr. Kriebel contends that this increase in field prices should not have occurred from 1984 to 1989 because there was a consistent oversupply of raisins.

For example, Mr. Kriebel points out that the field price for Natural (sun-dried) Seedless raisins was $1,300 per ton during the 1983–84 crop year, even though only 37.5 percent of the crop was declared ''free.'' Although this price was historically high, it was caused for the most part by factors other than the desirable carryout level for Natural (sun-dried) Seedless raisins. In the 1983–84 crop year, the industry attempted to market the large raisin supply without decreasing the field price from the prior year. The raisin industry managed to moderately increase shipments over the prior year's shipments, but not in sufficient quantities to account for the drastic increase in raisin supply. An oversupply situation occurred in the 1983–84 crop year partly because the amount of raisin-variety grapes purchased by wineries decreased 57 percent from 1982 to 1983 resulting in unusually high Natural (sun-dried) Seedless raisin inventories at the end of the 1983–84 crop year. The Natural (sun-dried) Seedless raisin field price cannot be adjusted to react to such changes in market conditions because it is established early in the crop year (normally on or before October 5). It was not until the beginning of the 1984–85 crop year that the industry drastically lowered the field price to $700 per ton.

Mr. Kriebel does not provide sufficient evidence that desirable carryout levels are solely responsible for the increase in field prices. The lowering of the desirable carryout levels has its greatest impact on supply during the early part of the crop year, before the new crop is harvested. As stated earlier, the decrease in the desirable carryout levels from two and one-half months to two months adjusts the free market supply during the early part of the crop year and brings it more in line with demand. As for the remaining part of the crop year, handlers are still provided an opportunity to increase their inventories, if necessary, by purchasing raisins from the reserve pool under order-mandated 10 plus 10 offers and other releases of reserve pool raisins available under the marketing order.

The desirable carryout was reduced from three months to two and one-half months of shipments beginning in the 1991–92 crop year. However, the field price has only risen 4 percent from $1115/ton in the 1990–91 crop year to $1160/ton in 1994–95 crop year. In comparison, the consumer price index for food products increased 14.4 percent from 1990 to 1994.

Mr. Kriebel also implies that the reduction in the desirable carryout will result in a greater amount of raisins being ''aborted'' through the Raisin Diversion Program (RDP). The order allows raisin growers to participate in the RDP by not growing their grape crop when a surplus of raisins exists in the market. Mr. Kriebel does not provide evidence of a correlation between the use of the RDP and the desirable carryout levels. It may be the case that it is more likely consistent surpluses, and thus a need for the RDP, have been caused by the downward trend in sales of raisin-variety grapes, particularly Thompson Seedless, to wineries. This is because wineries have been receiving a greater percentage of their distillation materials from wine-variety grapes or from other sugar sources, such as apples. This may also partially explain

why field prices for Natural (sun-dried) Seedless raisins have increased less during the 1990's. Since competition from wineries for raisin-variety grapes has decreased, there has been less pressure to increase field prices.

The Department does not find evidence that this rule will cause more raisins to be ''aborted'' in the RDP or that raisin prices will increase significantly. Instead, this rule seems to provide the industry with the means of mitigating the oversupply of raisins early in the crop year, and help stabilize market conditions for producers and handlers. Thus, no change is being made in response to the above comment.

After thoroughly analyzing the comments received and other available information, the Department has concluded that this final rule is an appropriate means of solving the marketing problems discussed herein.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1995–96 crop year begins August 1, 1995, and this rule should be effective promptly because the order requires that the committee meet on or before August 15 to compute and announce the trade demand, and the desirable carryout level is a necessary item in that calculation; and (2) growers and handlers are aware of this rule which was discussed and recommended at a public meeting.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.154 is revised to read as follows:

§ 989.154 Desirable carryout levels.

The desirable carryout levels to be used in computing and announcing a crop year's marketing policy shall be equal to the total shipments of free tonnage of the prior crop year during the months of August and September, for each varietal type, converted to a natural condition basis: *Provided,* That the desirable carryout levels to be used in computing and announcing the 1995–96 crop year's marketing policy shall be equal to the total 1994 shipments of free tonnage for the months of August and September, and one-fourth of the total shipments for the month of October: *Provided further,* That should the prior year's shipments be limited because of crop conditions, the Committee may select the total shipments during the months of August and September during one of the three crop years preceding the prior crop year.

Dated: July 31, 1995.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–19323 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Parts 160 and 161

[Docket No. 94–027–2]

Standards for Accredited Veterinarian Duties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing, under certain conditions, accredited veterinarians to issue official animal health documents up to 30 days after inspection for animals in herds or flocks under regular health maintenance programs. For all other animals, we will allow accredited veterinarians to issue official animal health documents up to 10 days following inspection. Last, we are requiring that all official animal health documents be valid for only 30 days following inspection, regardless of the date of issuance. We will continue to require that accredited veterinarians issue official animal health documents only for animals that they have inspected.

These actions will extend the time period allowed between inspection and the issuance of official animal health documents. We believe these actions will both alleviate the burden placed by the current time requirement on accredited veterinarians and reduce the costs of health inspection for the livestock industry, without significantly increasing animal disease risk.

EFFECTIVE DATE: September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. J. A. Heamon, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 9 CFR parts 160, 161, and 162 (referred to below as the regulations), some veterinarians are accredited by the Federal Government to cooperate with the Animal and Plant Health Inspection Service (APHIS) in controlling and preventing the spread of animal diseases throughout the country and internationally. Accredited veterinarians use their professional training in veterinary medicine to perform certain regulatory tasks.

On March 10, 1995, we published in the **Federal Register** (60 FR 13084–13086, Docket No. 94–027–1) a proposal to amend the regulations to allow, under certain conditions, accredited veterinarians to issue official animal health documents for animals in herds or flocks under regular health maintenance programs for up to 30 days after inspection. For all animals not part of a regular health maintenance program, we proposed to allow accredited veterinarians to issue official animal health documents for up to 10 days following inspection. We further proposed to require that all official animal health documents be valid for only 30 days following the date of inspection, regardless of the date of issuance. Finally, we proposed to add definitions of *issue* and *regular health maintenance program*.

We solicited comments concerning our proposal for 60 days ending May 9, 1995. We received seven comments by that date. They were from a swine breeding stock company, two national veterinary associations, a pork industry association, a Federal veterinarian, and two State agriculture agencies. Four of the commenters supported the proposed rule, although one of those commenters appeared to have some reservations about one aspect of the proposal. The remaining three commenters expressed concerns regarding specific aspects of the proposed rule. The concerns and reservations of those commenters are discussed below.

One commenter supported our proposal to allow an accredited veterinarian to issue an official animal

health document up to 10 days after his or her inspection of animals in a herd or flock not under a regular health maintenance program. The commenter acknowledged that the increase from 7 to 10 days would provide some additional time for laboratory results to be received, but stated that even 10 days may not be sufficient time to receive the results of some required tests. The commenter did not, however, cite recurring difficulties with any specific tests. We recognize that laboratory delays beyond an accredited veterinarian's control can occur, but we are unaware of any widespread problems that consistently delay the issuance of animal health documents. The regulations in § 161.3(k) already provide that an accredited veterinarian may issue an origin health certificate for export use without including test results from a laboratory if the APHIS Veterinarian-in-Charge determines that such an action is necessary to save time in order to meet an export schedule and agrees to add the test results to the certificate at a later time. If, in the future, it becomes necessary to address persistent delays in laboratory reporting, similar provisions could be proposed for the issuance of other animal health documents.

One commenter disagreed with our proposal to require that all official animal health documents be valid for only 30 days following the date of inspection, regardless of the date of issuance. The commenter felt that this restriction would place an unfair limitation on certificates made near the end of the 30-day inspection period, noting that a certificate issued on day 28 or 29 would only be valid for a day or two. The commenter envisioned a scenario in which a shipment of animals could be in transit at the time their certificate expired, thus leaving the animals without valid documentation. The commenter suggested that a certificate should be valid for at least 7 days after issuance, provided the certificate was issued during the 30-day inspection period. We believe that the difficulties envisioned by the commenter are not likely to occur due to the time frames associated with inspections and the issuance of animal health documents. Livestock facilities participating in a regular health maintenance program are usually large operations with an established distribution and transportation network in place, which lends a measure of predictability to the facility's shipping activities. We believe that the operator of such a facility would ensure that the health documents for a shipment of animals would be valid for a long enough period of time to complete the movement of those animals. If not, the next scheduled visit by the accredited veterinarian serving the facility would likely be only a few days in the future, and a new set of documents could be secured following that visit, thus allowing adequate time to move the shipment of animals. A document issued by an accredited veterinarian for animals that are not part of a regular health maintenance program would have to be issued no later than 10 days following inspection, so that document would be valid for at least 20 days following its issuance; in such a case, making the document valid for at least 7 days after issuance would be unnecessary.

Another commenter also objected to our proposal to require that all official animal health documents be valid for only 30 days following the date of inspection, regardless of the date of issuance. This commenter's objection was threefold: (1) The requirement would be a negative influence on regional approaches to animal movements within the United States and North America; (2) the requirement constitutes a centralization of regulation at a time when decentralization should be the goal; and (3) the requirement interferes with provisions that most, if not all, States have set concerning the length of time a health document remains valid. The commenter did not, however, provide any explanation or examples to elucidate his objections. We have made no changes in this final rule in response to that comment because the standards for accredited veterinarians contained in the regulations apply only to an accredited veterinarian's work with APHIS, even though it is common for federally accredited veterinarians to work on State programs in addition to their work with APHIS on Federal and cooperative State/Federal programs. Thus, the 30-day post-inspection limit on the validity of a health document would apply to an official certificate or document issued in connection with an APHIS program activity such as pre-export inspection, tuberculosis, brucellosis, or pseudorabies, but not to a State document issued by an accredited veterinarian in connection with a State-level program.

Finally, one commenter was concerned that the proposed definition of *issue* and removal of the words ''or sign'' from the phrase ''issue or sign'' would have the effect of creating a loophole that would allow an accredited veterinarian to legally pre-sign a number of blank animal health documents that could be filled out later by someone other than the accredited veterinarian. The commenter stated that an accredited veterinarian should be responsible for reviewing all animal health documents for accuracy before they are signed and then issued. We do not believe that the changes will create the loophole envisioned by the commenter for two reasons: First, the proposed definition of *issue*—''the distribution by an accredited veterinarian of an official animal health document that he or she has signed''—clearly indicates that an accredited veterinarian must sign a document before it is distributed. Our second reason builds on the first, in that proposed § 161.3(b) states that an accredited veterinarian may not issue—i.e., sign and distribute—or allow the use of any certificate, form, record, or report until and unless the document has been accurately and fully completed. We believe, therefore, that these provisions ensure that an accredited veterinarian is responsible for the accuracy of all animal health documents he or she issues.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are amending the regulations to allow, under certain conditions, accredited veterinarians to issue official animal health documents for animals in herds or flocks under regular health maintenance programs for up to 30 days after inspection. For inspection of other animals, we are allowing up to 10 days between the inspection of animals and the issuance of official animal health documents.

Until the effective date of this final rule, the regulations in § 161.3(a) require accredited veterinarians, when issuing or signing a certificate, form, record, or report regarding any animal, to have inspected the animal within 7 days. That requirement places an economic burden on large livestock facilities that sell and ship animals continuously. That is, large livestock facilities are currently required to have their animals inspected frequently, in order for veterinarians to issue, in a timely manner, the health documents required for the frequent sale and shipment of

animals. Such frequent visits can be expensive.

Allowing veterinarians additional time to issue official animal health documents following inspection will enable those veterinarians to inspect animals less frequently. Therefore, this rule will economically benefit large livestock facilities.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0032.

List of Subjects

9 CFR Part 160

Veterinarians.

9 CFR Part 161

Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 160 and 161 are amended as follows:

PART 160—DEFINITION OF TERMS

1. The authority citation for part 160 continues to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 160.1 is amended by adding, in alphabetical order, the following definitions:

§ 160.1 Definitions.

* * * * *

Issue. The distribution by an accredited veterinarian of an official animal health document that he or she has signed.

* * * * *

Regular health maintenance program. An arrangement between an accredited veterinarian and a livestock producer whereby the veterinarian inspects every animal on the premises of the producer at least once every 30 days.

* * * * *

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

3. The authority citation for part 161 continues to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

4. Section 161.3 is amended as follows:

a. By revising paragraphs (a) and (b) to read as set forth below.

b. In paragraph (c), by removing the phrase ''or sign'' in the first sentence.

c. In paragraph (k), by removing the phrase ''or sign'' in the first sentence.

§ 161.3 Standards for accredited veterinarian duties.

* * * * *

(a) An accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal, other than those in regular health maintenance programs, unless he or she has personally inspected that animal within 10 days prior to issuance.

(1) Following the first two inspections of a herd or flock as part of a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 10 days prior to issuance.

(2) Following the third and subsequent inspections of a herd or flock in a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 30 days prior to issuance.

(b) An accredited veterinarian shall not issue, or allow to be used, any certificate, form, record or report, until, and unless, it has been accurately and fully completed, clearly identifying the animals to which it applies, and showing the dates and results of any inspection, test, vaccination, or treatment the accredited veterinarian has conducted, except as provided in paragraph (c) of this section, and the dates of issuance and expiration of the document. Certificates, forms, records, and reports shall be valid for 30 days following the date of inspection of the animal identified on the document. The accredited veterinarian shall distribute copies of certificates, forms, records, and reports according to instructions issued to him or her by the Veterinarian-in-Charge.

* * * * *

Done in Washington, DC, this 27th day of July 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–19181 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–10; Amendment 39–9328; AD 95–16–08]

Airworthiness Directives; AlliedSignal, Inc. TPE331 Series Turboprop and TSE331 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal, Inc. (formerly Allied-Signal, Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Co. of Arizona) TPE331 series turboprop and TSE331 series turboshaft engines, that requires a record check of engine records to determine if any repair, assembly, modification, or installation work was performed by Fliteline Maintenance, formerly located in Wharton, Texas, or Mr. Eugene E. Shanks, or Mr. Carl Ramirez (collectively referred to as ''Fliteline''). In addition, for engines determined to have repair, assembly, modification, or installation work

performed by Fliteline, this action requires verification of all life limited components, inspection of affected components, and verification of compliance with all applicable AD's. This amendment is prompted by the results of a Federal Aviation Administration (FAA) investigation involving engines repaired, assembled, modified, or installed by Fliteline. The actions specified by this AD are intended to prevent uncontained failure of turbine rotors, fire, or loss of aircraft control.

EFFECTIVE DATE; September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (310) 627–5246, fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal, Inc. (formerly Allied-Signal, Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Co. of Arizona) TPE331 series turboprop and TSE331 series turboshaft engines was published in the **Federal Register** on August 5, 1994 (59 FR 39983). That action proposed to require a record check of engine records to determine if any repair, assembly, modification, or installation work was performed by Fliteline Maintenance, formerly located in Wharton, Texas, or Mr. Eugene E. Shanks, or Mr. Carl Ramirez (collectively referred to as ''Fliteline''). In addition, for engines determined to have repair, assembly, modification, or installation work performed by Fliteline, this action requires verification of all life limited components, inspection of affected components, and verification of compliance with all applicable AD's.

The Federal Aviation Administration (FAA) received a report of an aircraft accident involving an Ayres S2R–600 aircraft, with a modified AlliedSignal, Inc. (formerly Allied-Signal, Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Co. of Arizona) Model TPE331–1–151A turboprop engine installed. The FAA has determined that the engine installed on the accident aircraft was a configuration not approved for that aircraft and was improperly modified. The unapproved configuration and improper modification on that engine were performed by Mr. Eugene E. Shanks, the owner of Fliteline Maintenance, a domestic repair station, formerly located in Wharton, Texas. Since this accident, the FAA conducted further investigation of other AlliedSignal, Inc. TPE331 series engines repaired or maintained by Mr. Eugene E. Shanks under the name of Fliteline Maintenance. On these engines, the FAA found that the requirements of some applicable AD's had not been performed when the engine records indicated that the work had been performed, the records for life limited turbine components indicated more useful life than the components actually had remaining, parts were installed that are not approved for aircraft use, and modifications that had been performed without approved data. In addition, the FAA has determined that the records maintained by Fliteline Maintenance on the engines it repaired, assembled, or modified do not identify all of the suspect engine models and serial numbers. These conditions, if not corrected, could result in uncontained failure of turbine rotors, fire, or loss of aircraft control.

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

One commenter concurs with the rule as proposed.

Two commenters describe their service history of safe operation with aircraft and engines maintained by Fliteline. Therefore the commenters conclude that no AD is necessary. The FAA does not concur. The FAA's investigation has revealed a substantial number of component and AD discrepancies on many engines maintained by Fliteline. These discrepancies constitute an unsafe condition that exists or is likely to develop on engines of the same type design. This AD corrects that unsafe condition.

One commenter states that an AD is not necessary because every operator that has maintenance performed by Fliteline should know exactly the configuration and condition of their engine because that operator pays the bills. The commenter believes that an Advisory Circular (AC) might be in order, not an AD. The FAA does not concur. An AC provides guidance and information for complying with a related Federal Aviation Regulation(s). This AD identifies those products in which the FAA has found an unsafe condition and prescribes the actions each operator must take to correct that unsafe condition.

Three commenters state that the FAA should attempt to identify the engines and life limited components by engine serial number rather than including every TPE331 engine in the applicability. The commenters state that AD applicability is too broad and unnecessary. The FAA does not concur. The FAA has determined that Fliteline performed maintenance on a wide range of engine models and life limited turbine components. In addition, Fliteline did not produce a reliable and comprehensive list of suspect engines and models. Therefore, the applicability of the AD encompasses a number of engine models and requires a records search to determine which life limited components are affected by the AD.

One commenter states that Mr. Ramirez's name should be removed from the AD because he identified a list of TPE331 series engine on which he performed maintenance, including serial numbers: P–06045, P–06460C, P–20050, P–20288, P–20411, P–34004, P–34010, P–34013, P–34015, P–40222, P–40227, P–61041, P–90252C, P–91094C, P–92129, P–92159, and P–92190. The FAA does not concur. The FAA was unable to verify that the list provided by Mr. Ramirez represented a complete list of all the engines maintained by him. Therefore the FAA could not justify removing his name from the AD.

One commenter states that 50% of the engines maintained by Fliteline were single engine restricted category aircraft that were certified under the predecessors to the Federal Aviation Regulations and implied that these engines should not be affected by the AD. The FAA does not concur. Airworthiness Directives issued under part 39 of the Federal Aviation Regulations apply to all identified products when an unsafe condition exists and when that condition is likely to exist and develop in other products of the same type design, regardless of the certification basis.

Two commenters state that the compliance time in paragraph (a) in the NPRM is unreasonably short for airlines with many suspect engines or with high utilization. The FAA concurs in part. The FAA's investigation has shown that it is very unlikely that a single owner would operate a fleet of engines maintained by Fliteline. However, the overall scope of the records review has increased. The records review now encompasses aircraft maintenance records and purchase receipts along with engine maintenance records. In addition, the FAA has determined that the 20 hour compliance time to complete paragraph (a) is not essential to maintain safety and therefore is not necessary. The AD has, therefore, been changed to require accomplishing paragraphs (a) and (b) within 400 cycles

in service after the effective date of this AD.

One commenter indicates that records of maintenance performed by Fliteline are no longer available due to Original Equipment Manufacturer (OEM) log book or life limited part log format changes or due to one-year maintenance records retention requirements. The commenter states that the records review requirements of paragraph (a) should be limited only to the last 12 months. The FAA does not concur. Life limited part logs must be kept for the life of the part regardless of the life limited part log format. In addition, other records may be required to be kept for a period longer than 12 months; therefore, the FAA has determined not to limit the record search to 12 months.

One commenter mentions that ''other pertinent data'' stated in paragraph (a) of the NPRM needs a better definition. The FAA concurs and has clarified this statement in this final rule by specifying the review of engine life limited part logs, engine repair and maintenance records, maintenance and purchase receipts, and aircraft records.

One commenter asks whether a list of persons or facilities, which performed maintenance on their engines, may be used for the records review requirement in paragraph (a) of the NPRM. The FAA does not concur that a list of persons or facilities constitutes a review of engine records as specified in paragraph (a) of this final rule. However, such a list, with additional assurances, may be adequate. Operators may apply for an alternative method of compliance using the procedures in paragraph (c) of this final rule.

One commenter states that the words, ''any repair, assembly, modification, or installation,'' as stated in paragraph (a) of the NPRM, are over inclusive, because not all of Fliteline's maintenance actions are related to the corrective actions required by this AD. The FAA concurs in part. The FAA has deleted the word ''installation'' from paragraph (a) of this final rule because installation includes engine installation about which the FAA is not concerned. The FAA has determined, however, to keep the words ''any engine repair, assembly, and modification,'' because the discrepancies noted in engines repaired by Fliteline are related to these actions.

One commenter states that life limited part logs of spare turbine wheels possibly received from Fliteline should be reviewed. The FAA agrees that operators must validate all Fliteline life limited part log entries for all life limited turbine components. This final rule has been revised to also include life limited turbine components received from Fliteline.

One commenter questions the use of engine manufacturer and repair station data to verify the life limited part logs. The commenter suggests that the FAA lacks the authority to require operators to verify the life limited part logs with data from the engine manufacturer or repair stations when those parties are not required to keep that data. The FAA does not concur. The data needed to accomplish the requirements of paragraph (b)(1)(ii) of the AD may be available from manufacturers or repair stations. However, paragraph (b)(1)(iii) provides that if the data is not available the component must be removed from service. The FAA has the authority to require operators to take actions necessary to correct the unsafe condition identified in this AD.

One commenter requests that the AD clarify the method for validating life limited part log entries. This commenter also questions whether documentation was required for compliance. The commenter suggests that paragraph (b)(1)(ii) requires a validation entry on each life limited part log to reflect compliance with this AD. The FAA concurs in part. Each registered owner or operator need only make a single entry in the maintenance records indicating compliance with this AD per Federal Aviation Regulation part 91.417 (a)(2)(v). However, the FAA recommends that documentation validating all Fliteline life limited part log entries be kept in the engine records or attached to the life limited part log.

Several commenters state that paragraph (b) does not have any provisions for relief if another engine entry (i.e., beyond nut removal) was accomplished by a different maintenance organization after maintenance performed by Fliteline. A commenter suggests the AD provide a credit, which will reduce unnecessary AD effort, which clearly addresses the possibility of an earlier entry and validation by an FAA approved maintenance facility or person after maintenance by Fliteline. The FAA concurs. Paragraph (b)(1)(i) of this final rule has been revised to allow credit for engine inspections and overhauls accomplished subsequent to maintenance performed by Fliteline. Paragraph (b)(2) of this final rule has also been revised to allow credit for complete engine overhaul accomplished by the engine manufacturer, FAA certified repair station, or FAA certified mechanic, other than Fliteline.

One commenter recommends that the phrase ''disassembled beyond shaft nut removal'' referenced in paragraph (b)(1) in the NPRM should be clarified to state ''disassembled beyond aft turbine mainshaft nut removal.'' The FAA concurs and has revised this final rule accordingly.

One commenter states that the FAA offers no comment on the cost of doing the initial record check on each engine referenced by the NPRM's applicability. The commenter recommends that the FAA address the time expended and cost of reviewing records. The FAA concurs and has revised the estimated number of engines, labor and cost involved in the initial record search in accordance with paragraph (a) in this AD.

One commenter questions the FAA's economic analysis stating that it does not include the cost of expendable parts. The FAA concurs. The FAA has re-evaluated the costs to correct improper maintenance as required by paragraph (b) in the compliance section of this AD and has revised the economic analysis section accordingly.

One commenter suggests that the FAA include the business address for Fliteline Maintenance in the AD. The FAA concurs in part. Fliteline Maintenance is no longer doing business as a certified repair station at its former location. The FAA has, however, decided to include the former location of Fliteline in the AD in order to avoid confusion with any other repair facility in the country using that name. The AD has been revised accordingly.

Several commenters take issue with the NPRM's discussion section. Since those comments did not directly suggest that the FAA needed to make changes to the rule as proposed, the FAA does not address them. To the extent those comments could be read to suggest a change to the rule, the FAA has addressed those comments in the preceding paragraphs.

The FAA has changed the compliance time in paragraph (b) of this final rule from 100 hours time in service to 400 cycles in service after the effective date of this AD. This change is based on data received from the engine manufacturer concerning replacement parts availability and a determination that a compliance interval based on engine cycles is more appropriate for the affected components.

In addition, the FAA has clarified the aircraft applicability in this final rule by adding the words ''models'' and ''series.'' Also, since publication of the NPRM, the Los Angeles Aircraft Certification Office has moved and the contact information has been revised accordingly.

After careful review of the available data, including the comments noted

above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously.

The FAA estimates that 7,000 engines installed on aircraft of U.S. registry will be affected by the initial records search described in paragraph (a) of the compliance section. The FAA has estimated that the initial records search will take approximately two hours per engine and that the average labor rate is $60. per work hour. Furthermore, the FAA estimates that 350 engines installed on aircraft of U.S. registry will be affected by paragraph (b) of this AD, that it will take approximately 120 work hours per engine to accomplish the actions required by paragraph (b), and that the average labor rate is $60 per work hour. It will also take an estimated three work hours per engine to accomplish an additional records review, and the FAA estimates that parts will cost approximately $16,000 per engine. Based on these figures, the FAA estimates that total cost impact of the AD on U.S. operators is estimated to be $9,023,000.

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 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

95–16–08 AlliedSignal, Inc.: Amendment 39–9328. Docket 94–ANE–10.

Applicability: AlliedSignal, Inc. (formerly Allied-Signal, Inc., Garrett Engine Division, Garrett Turbine Engine Company, and AiResearch Manufacturing Co. of Arizona), TPE331–25, –43, –1, –2, –3, –5, –6, –8, –10, –11, and –12 series, and -55B and -61A Model turboprop engines; and TSE331–3U Model turboshaft engines. These engines are installed on but not limited to Mitsubishi MU–2B series (MU–2 series); Construcciones Aeronauticas, S.A. (CASA) C–212 series; Jetstream 3101 and 3201 series; Fairchild SA226 and SA227 series; Prop-Jets, Inc. Model 400; Cessna Model 441; Twin Commander Aircraft Corp. 680, 690, and 695 series, and Model 681; Rockwell Commander or Ayres Corp. S–2R series; Short Brothers and Harland, Ltd. SC7; Dornier 228 Series; Beech Aircraft Corp. 18 and 45 series and Models JRB–6, 3N, 3NM, 3TM, and B100; Pilatus PC–6 series; DeHavilland DH 104 Dove series; Grumman Model TS–2A; Grumman American Model G–164C; and Schweitzer Aircraft Corp. Model G–164 series aircraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncontained failure of turbine rotors, fire, or loss of aircraft control, accomplish the following:

(a) Within 400 cycles in service (CIS) after the effective date of this AD, review engine life limited part logs, engine repair and maintenance records, maintenance purchase receipts, and aircraft maintenance records (collectively referred to as ''records'') to identify any engine repair, assembly, or modification that was performed by, or any life limited turbine components received from Fliteline Maintenance, located in Wharton, Texas, domestic repair station certificate number GR2R856K; or Mr. Eugene E. Shanks, mechanic certificate number 1914482; or Mr. Carl Ramirez, mechanic certificate number 466432551 (collectively referred to as ''Fliteline'').

(b) Within 400 CIS after the effective date of this AD, for engines or components identified in accordance with paragraph (a) of this AD, accomplish the following:

(1) If records or other pertinent information indicate that the engine was disassembled beyond aft turbine mainshaft nut removal from the tie bolt by Fliteline, verify life limited turbine components and take appropriate action by the following methods:

(i) Remove, disassemble the engine, compare, and match each component's part number (P/N) and serial number (S/N) against that engine's issued life limited part logs. Engine hot section inspection or overhaul normally requires comparing and matching of turbine components with the life limited part logs. An engine hot section inspection or overhaul, subsequent to maintenance by Fliteline, and performed by the engine manufacturer, an FAA certified repair station, or an FAA certified mechanic, other than Fliteline, constitutes compliance with paragraph (b)(1)(i) of this AD.

(ii) Validate all Fliteline life limited part log entries by utilizing the component's hourly and cyclic life immediately before the Fliteline entry, as determined by records of the engine manufacturer or FAA certified repair stations other than Fliteline. A life limited part log entry is defined as a removal or installation record. Photocopied life limited part logs may be used provided component history can be established.

Note: Engine manufacturer record and service information referred to in the AD can be attained by calling AlliedSignal Engines Customer Information Center, telephone (800) 338–3378 or (602) 231–5287.

(iii) If the P/N, S/N, hourly and cyclic lives or the life limited part log of each life limited turbine component do not match or can not be validated, remove the component from service prior to further flight and replace with a serviceable component.

(2) Verify that any requirements of AD's signed off by Fliteline were actually accomplished by visual examination or reinspection of the affected components in accordance with the applicable AD. A complete engine overhaul or other maintenance necessary to accomplish applicable AD requirements, subsequent to maintenance by Fliteline, and performed by the engine manufacturer, an FAA certified repair station, or an FAA certified mechanic, other than Fliteline, constitutes compliance with paragraph (b)(2) of this AD.

(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, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then

send it to the Manager, Los Angeles Aircraft Certification Office.

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on September 5, 1995.

Issued in Burlington, Massachusetts, on July 26, 1995.

James C. Jones,

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

[FR Doc. 95–19230 Filed 8–1–95; 2:30 pm]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, and 558

Animal Drugs, Feeds, and Related Products; Piperazine Adipate Powder, Diprenorphine Hydrochloride Injection, Etorphine Hydrochloride Injection, and Certain Nitrofuran and Buquinolate Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions reflecting approval of 16 new animal drug applications (NADA's) held by Proctor & Gamble Pharmaceuticals, Inc., Happy Jack, Inc., and Lemmon Co. The NADA's provide for the use of piperazine adipate powder, diprenorphine hydrochloride (diprenorphine HCl) injection, etorphine HCl injection, certain nitrofuran dosage form products, and separately approved Type A medicated articles containing buquinolate or certain other drugs in manufacturing several Type C medicated feeds for chickens. In a notice published in the July 21, 1995, issue of the **Federal Register**, FDA is withdrawing approval of the NADA's.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In a notice published in the July 21, 1995, issue of the **Federal Register** (60 FR 37651), FDA is withdrawing approval of the following NADA's:

NADA No.	Drug name	Sponsor name and address
10–158	Furamazone, bismuth subsalicylate bolus	Proctor & Gamble Pharmaceuticals, Inc., P.O. Box 191, Norwich, NY 13815.
10–358	Nitrofurantoin tablets and boluses	Do.
12–291	Nitrofurantoin oral suspension	Do.
12–612	Nitrofurazone, nifuroxime, diperodon HCl ear solution	Do.
34–716	Buquinolate	Do.
35–314	Buquinolate and bacitracin zinc	Do.
35–315	Buquinolate, bacitracin zinc, and penicillin	Do.
35–317	Buquinolate and penicillin	Do.
35–327	Buquinolate, bacitracin methylene disalicylate (bacitracin MD), and penicillin.	Do.
35–329	Buquinolate and bacitracin MD	Do.
38–657	Buquinolate and chlortetracycline	Do.
39–925	Buquinolate and roxarsone combination	Do.
39–926	Buquinolate and roxarsone	Do.
41–744	Nitrofurantoin sodium injection	Do.
95–017	Etorphine HCl injection and diprenorphine HCl injection	Lemmon Co., Sellersville, PA 18960.
115–580	Piperazine adipate powder	Happy Jack, Snow Hill, NC 28580.

The sponsors requested withdrawal of approval of the NADA's. This final rule removes 21 CFR 520.1560, 520.1560a, 520.1560b, 520.1801, 520.1801a, and 522.1563; amends 21 CFR 522.723 and 522.883 to reflect the withdrawal of approval of these NADA's; removes and reserves 21 CFR 524.1580a and 558.105; and amends 21 CFR 558.62, 558.128, 558.325, 558.460, and 558.530.

In addition, 21 CFR 510.600(c) is amended to remove the entries for Proctor & Gamble Pharmaceuticals, Inc., from the list of approved drug sponsors because it no longer holds any approved NADA's.

List of Subjects

21 CFR Part 510

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

21 CFR Parts 520, 522, and 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''Proctor & Gamble Pharmaceuticals, Inc.'' and in the table in paragraph (c)(2) by removing the entry for ''000149''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1560 [Removed]

4. Section 520.1560 *Nitrofurantoin oral dosage forms* is removed.

§ 520.1560a [Removed]

5. Section 520.1560a *Nitrofurantoin oral suspension* is removed.

§ 520.1560b [Removed]

6. Section 520.1560b *Nitrofurantoin tablets and boluses* is removed.

§ 520.1801 [Removed]

7. Section 520.1801 *Piperazine adipate oral dosage forms* is removed.

§ 520.1801a [Removed]

8. Section 520.1801a *Piperazine adipate powder* is removed.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.723 [Amended]

10. Section 522.723 *Diprenorphine hydrochloride injection* is amended in paragraph (c) by removing the phrase ''Nos. 010042 and 000693'' and adding in its place the phrase ''No. 010042''.

§ 522.883 [Amended]

11. Section 522.883 *Etorphine hydrochloride injection* is amended in paragraph (c) by removing the phrase ''Nos. 010042 and 000693'' and adding in its place the phrase ''No. 010042''.

§ 522.1563 [Removed]

12. Section 522.1563 *Nitrofurantoin sodium injection* is removed.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

13. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 524.1580a [Removed]

14. Section 524.1580a *Nitrofurazone-nifuroxime-diperodon hydrochloride ear solution* is removed and reserved.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

15. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.62 [Amended]

16. Section 558.62 *Arsanilic acid* is amended by removing paragraph (c)(2)(v) and by redesignating paragraph (c)(2)(vi) as paragraph (c)(2)(v).

§ 558.105 [Removed]

17. Section 558.105 *Buquinolate* is removed and reserved.

§ 558.128 [Amended]

18. Section 558.128 *Chlortetracycline* is amended by removing and reserving paragraph (c)(5)(iii).

§ 558.325 [Amended]

19. Section 558.325 *Lincomycin* is amended by removing and reserving paragraph (c)(3)(iv).

§ 558.460 [Amended]

20. Section 558.460 *Penicillin* is amended by removing and reserving paragraph (c)(2)(v).

§ 558.530 [Amended]

21. Section 558.530 *Roxarsone* is amended by removing and reserving paragraph (d)(3)(vii).

Dated: July 13, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–19091 Filed 8–3–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Ivermectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Research Laboratories, Division of Merck & Co., Inc. The original NADA provides for the use of a Type A medicated article containing ivermectin in manufacturing Type C medicated feed for production swine. The supplemental NADA expands use of the feed to breeding swine. The feed is intended for treatment and control of certain endo- and ectoparasites.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Merck Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, is the sponsor of approved NADA 140–974, which provides for the use of a Type A medicated article containing 0.6 percent ivermectin (2.72 grams per pound (g/lb)) in manufacturing Type C medicated feed containing 1.8 g of ivermectin per ton (t). The feed is indicated for the treatment and control of certain gastrointestinal roundworm, lungworm, kidney worm, lice, and mite infestations of growing swine (up to 220 lb in body weight) as in § 558.300 (21 CFR 558.300). The feed is administered so as to provide 0.1 milligram of ivermectin per kilogram (mg/kg) of body weight per animal per day. Merck has filed a supplemental NADA expanding use of the ivermectin-containing feed to include breeding swine. To achieve the same dosage level (i.e., 0.1 mg of ivermectin per kg of body weight) in the larger animals, the supplemental NADA provides for an ivermectin concentration up to 11.8 g/t of Type C medicated feed.

The supplemental NADA is approved as of August 4, 1995, and the regulations are amended in § 558.300 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Additionally, approval of the supplemental NADA increases the highest concentration of ivermectin permitted in Type C medicated feed from 1.8 to 11.8 g/t. The feed can be manufactured from either a Type A medicated article or a Type B medicated feed. Currently, the Category II table in § 558.4 (21 CFR 558.4) specifies that the maximum concentration of ivermectin permitted in a Type B feed is 182 g/t (i.e., 100 x the 1.8 g/t now approved for Type C feed). However, because the supplemental NADA increases the highest drug concentration permitted in the Type C feed to 11.8 g/t, this justifies a corresponding increase in the maximum ivermectin concentration in the Type B feed to 1,180 g/t (i.e., 100 x the 11.8 g/t). Accordingly, FDA is also amending the Category II table in § 558.4 to reflect this increase.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11 (e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support

approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning August 4, 1995, because the supplemental NADA contains reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the use for which the supplemental NADA is approved.

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.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d) in the ''Category II'' table in the entry for ''Ivermectin'' under the third column by removing ''182 g/ton (0.02%)'' and adding in its place ''1,180 g/ton (0.13%)''.

3. Section 558.300 is amended by revising paragraphs (c)(1)(i) and (iii) to read as follows:

§ 558.300 Ivermectin.

* * * * *

(c) * * *

(1) * * *

(i) *Amount.* For growing-finishing swine feed 1.8 grams of ivermectin per ton (to provide 0.1 milligram per kilogram of body weight per day). For mature and breeding swine feed 1.8 to 11.8 grams of ivermectin per ton (to provide 0.1 milligram per kilogram of body weight per day).

* * * * *

(iii) *Limitations.* Feed as the only feed for 7 consecutive days. For use in swine only. Withdraw 5 days before slaughter.

* * * * *

Dated: July 26, 1995.

Robert C. Livingston,

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

[FR Doc. 95–19281 Filed 8–3–95; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2606 and 2609

RIN 1212–AA72

Debt Collection Procedures—Tax Refund Offset

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is adopting, as a final rule with change, amendments that it previously issued as an interim final rule. The procedures in this rule enable the PBGC to refer past-due, legally enforceable debts to the internal Revenue Service to be offset against federal tax refunds.

EFFECTIVE DATE: This rule is effective August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On December 6, 1994 (59 FR 62571), the Pension Benefit Guaranty Corporation published an interim final rule that amended its administrative review and debt collection regulations (29 CFR parts 2606 and 2609). As amended, the PBGC's regulations include the procedures required for participation in the federal tax refund offset program authorized by 31 U.S.C. 3720A. Section 3720A, and Internal Revenue Service regulations thereunder (26 CFR 301.6402–6), include requirements to ensure that debts referred for offset against amounts otherwise payable as tax refunds are past-due and legally enforceable and that the agency has made reasonable efforts (pursuant to regulations) to obtain payment.

The one comment on the interim final rule expressed concern about its effects on due process of law requirements under the Fifth Amendment to the United States Constitution. The PBGC believes that the commenter's concern is unwarranted. As noted above, the pre-referral procedures required by IRS regulations, which are included in the interim final rule, provide due process protections. Among other things, before the PBGC refers a debt for tax refund offset, the debtor has at least 60 days to present evidence that all or part of the debt is not past-due or not legally enforceable (§ 2609.33(b)(2)).

This final rule makes no changes in the rules of agency organization and procedure that wee prescribed by the interim final rule and have been in effect since January 5, 1995. Therefore, the Administrative Procedure Act does not require further notice and public procedure or a delayed effective date, and the PBGC for good cause finds that both such actions are unnecessary (5 U.S.C. 553 (b) and (d)).

E.O. 12866

The PBGC previously determined that the interim final rule was not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

List of Subjects

29 CFR Part 2606

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

29 CFR Part 2609

Administrative practice and procedure, Claims.

Accordingly, the interim final rule amending 29 CFR parts 2606 and 2609 that was published at 59 FR 62571 on December 6, 1994, is adopted as a final rule without change.

Issued in Washington, DC this 31st day of July, 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–19175 Filed 8–3–95; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

33 CFR Part 137

[Docket 50112]

RIN 2105–AC01

Limit of Liability for Deepwater Ports

AGENCY: Office of Secretary, Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule establishes a $62 million limit of liability for the Louisiana Offshore Oil Port (LOOP) deepwater port. This limit applies only to those oil spills where LOOP would be entitled to limit its liability in accordance with the Oil Pollution Act of 1990. This action does not alter LOOP's unlimited liability for spills caused by gross negligence, willful misconduct, or violation of certain Federal regulations. LOOP is the only U.S. deepwater port in operation at this time; specific liability limits for other, future deepwater ports will be established through separate rulemakings as appropriate.

EFFECTIVE DATE: August 4, 1995.

ADDRESSES: Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying in Docket 50112, Office of Documentary Services (C–55), U.S. Department of Transportation, room PL 401 (Plaza level), 400 Seventh St., SW., Washington, DC. 20590–0001. Certain studies referenced in this notice may be ordered from the National Technical Information Service (NTIS), Springfield, VA 22161; phone orders (703) 487–4650 (Visa, Mastercard and American Express accepted).

FOR FURTHER INFORMATION CONTACT: Mr. Robert I. Stein, Office of Environment, Energy and Safety, at (202) 366–4846, or Mr. Paul B. Larsen, Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law, at (202) 366–9161.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 8, 1995, the Department of Transportation published a notice of proposed rulemaking (NPRM) entitled Limit of Liability for Deepwater Ports. The Department received 12 letters commenting on this proposal. No public hearings were requested or held. A request for an extension of the comment period was received, but decided against (this is further discussed in paragraph (5) below).

Statutory Basis and Purpose

The purpose of this regulatory action is to establish an appropriate limit of liability for deepwater ports in accordance with section 1004 of OPA 90 (Public Law 101–380).

Section 1004 originally set the limit of liability for deepwater ports at $350 million. However, it also allows the limit to be adjusted to a lower amount as appropriate (but not less than $50 million), subject to a study of the relative operational and environmental risks of transporting oil to the United States by deepwater ports compared to other ports.

The relative risk study, entitled the ''Deepwater Ports Study,'' has been completed and forwarded to Congress. The study concluded that deepwater ports represent a lower operational and environmental risk for delivering crude oil to the United States than the three other common modes of crude oil delivery (direct vessel deliveries, lightering, and offshore mooring stations). Copies of the Deepwater Port Study may be ordered from NTIS (publication number PB94–124054).

At present, the only deepwater port in operation in the United States is LOOP. However, other deepwater ports may be built in the future. Because there may be significant engineering and environmental differences between different deepwater ports, the Department has determined that it is necessary to review any deepwater port individually before setting its limit of liability within the statutory limits of $50 million and $350 million. Limits for other deepwater ports may be different from LOOP's limit.

Therefore, in accordance with its authority under section 1004(d)(2)(C) of OPA 90 (33 U.S.C. 2704), and for reasons explained in the NPRM and this preamble, the Department is establishing a $62 million limit of liability for the LOOP deepwater port.

Discussion of Comments and Changes

Twelve responses were received which commented on several issues in the NPRM. These comments, and the Department's deliberations, are discussed below.

1. Limit of Liability

Ten comments addressed the limit of liability issue, seven of which supported a $58 million limit and one which supported a $50 million limit. These comments stated that the present $350 million limit of liability is inequitable to deepwater ports, particularly when compared to the limits of liability allowed for tank vessels. The comments pointed out the results of the ''Deepwater Ports Study'' (which determined that delivery of oil via deepwater ports represented a lower environmental risk than delivery by tankers, lightering, or offshore mooring station) and the Coast Guard's risk analysis of LOOP (which determined the maximum credible pipeline spill to be 5,194 barrels), and argued that the limit of liability should reflect the lower risks and smaller credible spill sizes of deepwater ports.

One comment supported an unspecified limit between $58 million and $150 million. Another comment alternatively suggested that it would be more equitable for the deepwater port limit of liability to be the same as for other offshore facilities: $75 million plus cleanup costs, with a requirement for demonstrated financial responsibility of $150 million.

The Department has determined that it is appropriate national policy that a deepwater port should be liable for the cost of its maximum credible spill (assuming no gross negligence or other acts that would disqualify it from limiting its liability). Further, since Congress has directed that the liability limit should be based on the study of the risk of deepwater ports relative to the risk of other means of transporting oil by vessel, it is inappropriate to base a deepwater port limit of liability on that for other offshore facilities.

The NPRM discussed a worst-case unit spill cost of $11,088 per barrel for crude oil, which was based upon national historical spill costs up to 1992. Although it is appropriate to revise the unit cost to a more-current amount, at this time no new historical cost data is available and the Department has decided to use the Consumer Price Index (CPI) as a basis for revision. The national average CPI for 1992 was 140.3 and the most current CPI (March 1995) is 151.4, an increase of 7.9 percent. Therefore, the new unit spill cost is $11,965 per barrel. Applying this to LOOP's maximum credible spill of 5,194 barrels yields $62,146,210. Accordingly, the Department is setting the limit of liability for LOOP at $62 million.

The CPI does not specifically track oil spill costs in its analysis. However, Section 1004 (d)(4) of OPA 90 requires adjustment of the liability limit reflecting significant increases in the CPI.

2. Periodic Review of Limits of Liability

The NPRM requested comments on whether the Department should reassess limits of liability at fixed time intervals. Two comments addressed this issue.

One comment suggested 3-year intervals (in order to be consistent with other periodic review requirements in OPA 90) and the other comment suggested 10 years. DOT will issue a separate CPI adjustment regulation as required by law.

3. Universal Versus Port-by-Port Limit of Liability

One comment called for a single (universal) limit of liability for all deepwater ports instead of the NPRM's proposed port-by-port limit for each individual deepwater port. The comment argued that, by virtue of the Federal licensing process, all deepwater ports would be designed and operated at the same level of safety. Therefore, it is not necessary to establish individual limits.

The Department disagrees that there is no basis for setting individual limits of liability for different deepwater ports. This is because, although all deepwater ports will be designed and operated to the same high safety standards, the worst-case spill can still differ substantially from port to port. LOOP's maximum credible pipeline spill of 5,194 barrels is directly governed by its distance offshore (18 miles), its design flow rate (100,000 barrels per hour), and the size of its pipeline (48 inches). Even when designed and operated to the same safety standards, these parameters may be significantly different for another deepwater port, resulting in a different maximum credible spill.

The same commenter also discussed some economic issues; these are addressed in the ''Assessment'' section of this preamble.

4. Consistency Determination

The state of Louisiana requested submittal of a Consistency Determination with respect to its Coastal Zone Management Plan in accordance with 15 CFR part 930 subpart C. Such determinations are required whenever any action by a Federal agency affects land or water uses with a state's coastal zone.

The Department has determined that a Consistency Determination is not necessary because this action is administrative in nature and does not affect either land or water usage.

5. Extension of Comment Period

One commenter has recently acquired an interest in a planned deepwater port project off the coast of Texas and requested an extension of the comment period to respond to the NPRM.

The Department has determined that extending the comment period for this reason would not materially benefit the rulemaking. This is because this final rule only directly affects the LOOP deepwater port; other deepwater ports will be separately and individually evaluated for their own limit of liability when appropriate.

6. Basis for Regulatory Action

One comment disagreed that the findings of the ''Deepwater Ports Study'' form a sufficient basis for this regulatory action (to reduce the limit of liability for deepwater ports) because the Study did not include relative risks of other onshore and offshore facilities. The comment stated that many onshore facilities pose less risks than deepwater ports and, therefore, adjusting limits of liability for deepwater ports should not be undertaken without also adjusting limits of liability for onshore and offshore facilities.

The ''Deepwater Ports Study'' did not include relative risk analyses of onshore and offshore facilities because these are not alternative modes for the transportation of oil by vessel to the United States. The Department has determined that the Study's findings are a sufficient basis for this action. Further, although OPA 90 does give the Department discretion to also adjust limits of liability for transportation-related onshore facilities, such action would be a separate rulemaking.

7. Joint Liability Scenarios

The NPRM discussed several scenarios in which LOOP might be liable (solely or jointly) for a tanker spill. LOOP's comment on this issue took exception to these scenarios, stating that OPA 90 does not provide for joint liability: the source of the spill is considered the responsible party except where a third party was solely responsible for the spill. LOOP stated that in cases where responsibility for a spill may be shared, liability under such a spill would not be created by OPA 90 and therefore such scenarios are outside the scope of this rulemaking.

Although OPA 90 does not recognize joint responsible parties other than between the owner, operator, or demise charterer of a vessel, it does recognize (in section 1002(d)(2)(A)) that third parties might cause an incident, and makes them liable up to their limit as if they were the responsible party. In addition, liability under OPA 90 is defined to be the standard of liability which obtains under 33 U.S.C. 1321. As noted in the conference report, this has been construed as joint and several liability. The Department has determined that the existence of potential liability for a tanker spill, under limited circumstances, was not a determinative factor in setting the liability limits in this rule.

8. Unlimited Liability Provisions of OPA 90

The $62 million limit of liability herein applies only to spills at LOOP that are not caused by gross negligence, willful misconduct, or violation of certain Federal regulations in accordance with section 1004 of OPA 90 (33 U.S.C. 2704). The unlimited liability provisions of OPA 90 are not affected by this rulemaking.

Regulatory Analyses and Notice

DOT Regulatory Policies and Procedures

This final rule is considered to be a significant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 11040, because of substantial industry interest.

Executive Order 12866

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12866, and it has been determined that it is not an economically significant rulemaking.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Department must consider whether this regulation will have a significant impact on a substantial number of small entities.

The NPRM stated that the proposed action only directly affected a single company, Louisiana Offshore Oil Port (LOOP), Inc., which owns and operates the only deepwater port in the United States at present. The NPRM also stated that neither LOOP specifically, nor deepwater ports in general, qualify as small business concerns. The NPRM specifically requested comments from small companies affected by the proposed action; however, no comments were received.

Therefore, the Department concludes that this action does not affect any small business entities.

Paperwork Reduction Act

This final rule contains no collection of information requirements under the Paperwork Reduction Act.

Assessment

The regulatory evaluation in the NPRM stated that the proposed action might have an economic effect on LOOP (depending upon what final limit of liability was established), but that no effect was anticipated on the general private sector, consumers, or Federal, state or local governments. Only two comments were received that addressed the economic effects of this action.

The first comment was from LOOP, Inc., which stated: ''OPA's liability limit plays an important part in LOOP's insurance costs. When the OPA limit is reduced, it will most probably result in a lowering of the total insurance premiums paid by LOOP. These reduced costs will enable LOOP to be more competitive and could be reflected in lower rates for service, thus benefiting oil importers and, ultimately, American consumers of oil products such as gasoline.''

The Department recognizes that LOOP's business activity is to receive crude oil cargoes from offshore VLCC and ULCC tankers and transfer those cargoes ashore (via seafloor pipeline), an activity in which it competes with local lightering companies that provide a similar transfer service using small tankers (typically 80,000 deadweight tons or smaller). LOOP's original limit of liability under the Deepwater Ports Act was $50 million; in 1980 the liability limit was established at $150 million. OPA 90's default limit of liability of $350 million raised LOOP's insurance costs. This rulemaking establishes $62 million as the appropriate limit of liability for LOOP. It is noted that the limit of liability of typical lightering vessels (against which LOOP competes) is less than $40 million.

The second comment was from Petroport, Inc., which is planning to develop a deepwater port 35 miles offshore of Freeport, Texas. Petroport's comment discussed the economic effect of establishing limits of liability for deepwater ports on a port-by-port basis rather than a single, universal limit for all deepwater ports. This comment stated: ''Petroport is concerned that if the Department establishes a limit only for LOOP at this time and requires separate rulemakings for future deepwater ports, then its own deepwater port, and other such facilities, would be placed at a severe competitive disadvantage. The Department inadvertently would create uncertainty in the market, could possibly discourage, and certainly would delay, other deepwater port ventures through the creation of unnecessary regulatory burdens.''

Petroport, Inc., was also concerned that a new deepwater port would have to operate under OPA 90's default $350 million limit of liability until completion of a rulemaking to establish a lower, more-appropriate limit. Petroport, Inc., was further concerned that the port-by-port approach would impede development of other deepwater ports, thereby creating a noncompetitive monopoly for LOOP.

The Department disagrees that the port-by-port approach for setting individual limits of liability would discourage or delay the overall development of a deepwater port. The deepwater port licensing process (found in 33 CFR Part 148) already requires, among other things, submittal of an environmental analysis which, in turn, must evaluate spill sizes and the possibility of pollution incidents resulting from personnel and equipment failures, natural calamities and casualties, etc. The environmental analysis submittal will allow the Department timely development of an appropriate limit of liability concurrently with the overall processing of the license application. Therefore, this action will not delay development of any new deepwater port project nor does it impose any new or undue regulatory burden on an applicant.

The Department also disagrees that any delays in development of a deepwater port foster a noncompetitive monopoly for LOOP. Even though LOOP is the sole deepwater port in the United States, it does not benefit from a monopolistic position in the market: LOOP's primary competition comes from lightering companies, not from the presence (or absence) of other deepwater ports. Other deepwater ports will be in a similar competitive situation with local lightering companies.

The Department concludes that, although this action may improve LOOP's competitiveness as an individual company, the overall competitiveness of oil transfer business activity will not be significantly affected. Therefore, the anticipated impact of this rulemaking does not warrant a full Regulatory Analysis or Evaluation.

National Environmental Policy Act

The Department has determined that this rulemaking is administrative in nature and therefore is categorically excludable from further environmental assessment.

List of Subjects in 33 CFR Part 137

Claims; Harbors; Insurance; Oil pollution.

For the reasons discussed in the preamble, the Department amends 33 CFR part 137 as follows:

SUBCHAPTER M—MARINE POLLUTION FINANCIAL RESPONSIBILITY AND COMPENSATION

PART 137—DEEPWATER PORT LIABILITY FUND

1. The authority citation for 33 CFR part 137 is revised to read as follows:

Authority: 33 U.S.C. 1509(a), 1512(a), 1517(j)(1)), 2704; 49 CFR 1.46.

2. Subpart G is added as follows:

Subpart G—Limits of Liability

Sec.
137.601 Purpose.
137.603 Limits of Liability.

Subpart G—Limits of Liability

This subpart sets forth the limits of liability for U.S. deepwater ports in accordance with section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).

§ 137.603 Limits of Liability.

(a) The limits of liability for U.S. deepwater ports will be established by the Secretary of Transportation on a port-by-port basis, after review of the maximum credible spill and associated costs for which the port would be liable. The limit for a deepwater port will not be less than $50 million or more than $350 million.

(1) The limit of liability for the LOOP deepwater port licensed and operated by Louisiana Offshore Oil Port, Inc., is $62,000,000.

(2) [Reserved]

(b) [Reserved]

Dated: July 31, 1995.

Federico Peña,

Secretary of Transportation.

[FR Doc. 95–19212 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–62–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–18–1–6024A; FRL–5263–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document takes final action to approve the State

Implementation Plan (SIP) submitted by the state of Missouri for the purpose of bringing about the attainment of the National Ambient Air Quality Standard (NAAQS) for lead. The SIP was submitted by the state to satisfy certain Federal requirements for an approvable nonattainment area lead SIP for the Doe Run primary and secondary lead smelter near Bixby, Missouri (Doe Run-Buick).

DATES: This action will be effective October 3, 1995 unless by September 5, 1995 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION:

I. Background

The Doe Run Company acquired the primary lead facility near Bixby, Missouri (Doe Run-Buick), on November 16, 1986. Doe Run produced primary lead throughout 1987 and part of 1988. Violations of the NAAQS for lead were recorded in the first two calendar quarters of 1988. In the later part of 1988, Doe Run ceased operating the Doe Run-Buick facility as a primary smelter. Subsequent to 1988, various parts of the facility were operated intermittently to support production at Doe Run's Herculaneum, Missouri, primary smelter. Though air quality monitors indicated that ambient concentrations exceeded 1.5 $\mu g/m^3$ for some 24-hour periods, the quarterly lead standard was not violated during this intermittent operating scenario. Doe Run continues to utilize various pieces of equipment associated with the primary operation in conjunction with the company's colocated secondary lead smelting operation which began production in 1991. Although the most recent violations of the lead NAAQS occurred during the first two calendar quarters of 1988, there were no enforceable limitations which precluded the facility from operating in a fashion that had previously contributed to violations of the standard.

On November 5, 1990, the EPA issued a call for a revision to the Missouri SIP in response to the 1988 violations of the NAAQS for lead in the vicinity of Doe Run-Buick. The SIP revision was due by December 31, 1991. On November 6, 1991, EPA promulgated a nonattainment designation for the area surrounding the Doe Run-Buick facility under the authority of sections 107(d)(1) and (5) of the Clean Air Act (CAA). Upon promulgation of the nonattainment designation, a state must prepare a revision to the SIP in accordance with the requirements of section 172 of the CAA, showing how the area will be brought into attainment. As a result of EPA's promulgation of the nonattainment designation, a full Part D SIP revision for Doe Run-Buick became due on July 6, 1993.

On July 2, 1993, the state of Missouri submitted an SIP revision addressing the applicable Part D requirements of the CAA relating to lead for the Doe Run-Buick smelter. The submission provided control measures to be implemented if the primary smelting facility resumed operations. The SIP also provided some restrictions on the use of the primary blast furnace and the refinery facilities used in conjunction with the secondary smelting operations. The July 1993 SIP revision was adopted by the Missouri Air Conservation Commission (MACC), after proper notice and public hearing, on June 29, 1993.

In a letter dated September 30, 1993, EPA informed the state that the proposed Special Provisions amendment to Missouri rule 10 CSR 10–6.120 was not approvable. The proposed amendment would allow the sinter plant to be operated in conjunction with the secondary smelting operation. As the modeling analysis of the current mode of operations did not include emissions from the primary smelter's sinter machine, there was no demonstration of attainment for the proposed operating scenario.

On October 7, 1993, EPA notified the state that the SIP revision lacked several elements necessary to meet EPA's completeness criteria, and that it contained several elements which were not approvable. In an effort to resolve these problems, a meeting was held on October 18 and 19, 1993, among representatives from EPA, MDNR, and the Doe Run Company. In a November 15, 1993, letter, MDNR committed to make the needed corrections to the SIP and amend 10 CSR 10–6.120, and submit them to EPA by April 1994. In December 1993, EPA determined that sufficient progress was not being made in rectifying the deficiencies in the Buick SIP. A finding of incompleteness was sent to the Governor of Missouri on January 4, 1994.

The required changes to the SIP were adopted by the MACC at a public hearing held on March 31, 1994. Final changes to Missouri rule 10 CSR 10–6.120 were adopted by the MACC, after proper notice and public hearing, on April 28, 1994, and became effective on August 28, 1994.

The state submitted supplemental material to EPA on June 30, 1994. This subsequent submittal still lacked the plot plan showing the location of the fencing installed around the Buick facility, which was one deficiency previously noted by EPA. It was also noted that the Consent Order contained an error in the wording of Contingency Measure number 2. The correct wording had been included in a February 23, 1994, letter from EPA, forwarding our comments on the draft Consent Order, during the state's public comment period. The inclusion of the needed language was agreed upon at a meeting between MDNR staff and EPA on March 22, 1994. However, due to clerical error, the language in the March 31, 1994, Consent Order was incorrect. A new Consent Order, which included the correct language, was signed by the MACC on September 29, 1994, and submitted to EPA on November 23, 1994, along with the missing plot plan. EPA deemed the SIP revision complete on December 15, 1994. The finding of completeness stopped the section 179 sanctions clock initiated by EPA's January 4, 1994, finding of incompleteness.

The July 2, 1993, SIP, as revised and adopted in March 1994, and the revised September 29, 1994, Consent Order, satisfy the Part D requirements of the CAA. The revised plan also contains a control strategy to be implemented if the primary smelting facility resumes operation. Dispersion modeling demonstrates that these control measures would result in attainment of the NAAQS for lead. As the area is currently attaining the lead NAAQS, the attainment date is the effective date of the SIP—March 31, 1994. The amendments to Missouri rule 10 CSR 10–6.120 contain emission limits for stack sources and fugitive sources for both the current mode of operation (the secondary smelter), and emission limits effective upon resumption of the smelter's primary production of lead.

II. Criteria for Approval

This SIP revision was reviewed using the criteria established by the CAA. The requirements for all SIPs are contained in section 110(a)(2) of the CAA. Subpart 1 of Part D of Title I of the CAA, and in particular section 172(c), specifies the provisions necessitated by designation of an area as nonattainment for any of the NAAQS. Further guidance and criteria are set forth in Subpart 5 of Part D, the ''General Preamble for the

Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498), and in the ''Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (58 FR 67748).

III. Review of State Submittal

A. Control Strategy

The 1992 emissions inventory (EI) is the baseline EI for this SIP revision. The SIP includes a list of control measures, which are to be installed and implemented before the Buick primary smelter is operated to process lead concentrate and produce primary lead. As an additional control measure, Missouri amended rule 10 CSR 10–6.120 to include emission and throughput limits for the secondary smelting operation. Air dispersion modeling was used to determine that the controls were sufficient to attain the lead NAAQS.

Appendix F of the SIP contains the June 24, 1993, Consent Order which sets forth the administrative requirements for the implementation of the control measures. Appendix G contains amended Missouri rule 10 CSR 10–6.120, which establishes *enforceable* emission and throughput limits for both the primary smelting operation and the secondary smelting operation.

B. Attainment Demonstration

Section 192(a) of the CAA requires that SIPs must provide for attainment of the lead NAAQS as expeditiously as practicable, but not later than five years from the date of an area's nonattainment designation. The lead nonattainment designation for the area surrounding the Doe Run-Buick facility was effective on January 6, 1992; therefore, the latest attainment date permissible by statute would be January 6, 1997. As the area is currently attaining the lead NAAQS, the attainment date is the effective date of the SIP, March 31, 1994. This meets the statutory requirement.

The Industrial Source Complex Long-Term Model (ISCLT2) was used to demonstrate attainment and maintenance of the lead NAAQS for the two operating scenarios. The procedures recommended in EPA's *Guideline on Air Quality Models (Revised)*, EPA 450/2–78–027R, July 1986, and *Supplement A to the Guideline on Air Quality Models (Revised)*, EPA 450/2–78–027R, July 1987, were followed.

C. EI and Air Quality Data

Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area.

The 1992 emissions inventory is the baseline EI for this SIP revision. This inventory was quantified through stack testing, worker exposure data, evaluation of equipment and procedures, EPA emission estimation methods, and engineering judgement. The attainment scenario EIs were derived from the baseline inventory.

The state submittal provides a historical summary of the air quality from the third calendar quarter of 1982 through the fourth calendar quarter of 1992. Since the second calendar quarter of 1988, at which time the primary smelting operation ceased, there have been no exceedances of the quarterly lead standard at any of the monitoring locations.

D. Reasonably Available Control Measures (RACM) (Including Reasonably Available Control Technology (RACT))

The submittal must contain provisions to ensure that RACM (including RACT) are implemented (see section 172(c)(1) of the CAA). See 57 FR 13549 and 58 FR 67748 for EPA's interpretation of RACM and RACT requirement.

A 1991 six-volume study conducted by Fluor Daniel, Inc. represents an RACT survey of the Buick facility. The report contains a study of various process technology, and a review of the existing facilities and operating practices. The controls at the Buick smelter were found to be RACT for all stack and process fugitive emission sources.

An RACM survey was conducted in accord with 57 FR 18072, EPA's guidance with respect to the selection of fugitive dust control measures. Three of the five suggested measures were found to be applicable to the Buick facility. The SIP adequately documents the reasons for which each measure was selected or rejected. Each selected measure is included in the Buick Work Practice Manual and, in accord with the June 24, 1993, Consent Order found in Appendix F of the SIP, will be implemented upon the resumption of lead concentrate processing and primary lead production.

E. Reasonable Further Progress (RFP)

The SIP must provide for RFP [see section 172(c)(2) of the Act]. The control measures for the Buick smelter are to be in place and operational before the smelter resumes the primary production of lead as set forth in the July 24, 1993, Consent Order found in Appendix F of the SIP. EPA believes this meets the requirements for RFP for lead SIPs, as discussed in the ''Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (58 FR 67748).

F. New Source Review (NSR)

Missouri rule 10 CSR 10–6.020 identifies the current specific descriptions of the lead nonattainment areas in Missouri. These areas include the city of Herculaneum in Jefferson County, and the Dent, Liberty, and Arcadia townships in Iron County. 10 CSR 10–6.020 is utilized in conjunction with 10 CSR 10–6.060 which requires a permit for construction of, or major modification to, an installation with potential to annually emit 100 tons or more of a nonattainment pollutant, or a permit for a modification with potential to annually emit 100 tons or more of a nonattainment pollutant. Because these provisions include requirements for all nonattainment areas and are not limited to lead, EPA is acting on the provisions in a separate rulemaking.

G. Contingency Measures

As provided in section 172(c)(9) of the CAA, all nonattainment area SIPs that demonstrate attainment must include contingency measures. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the state or EPA, upon a determination that the area has failed to meet RFP or attain the lead NAAQS by the applicable attainment date.

The contingency measures included in the July 2, 1993, SIP submittal were determined to be inadequate to address possible air quality violations at the Buick facility for both the primary and secondary smelting operations. EPA notified the state, in an October 7, 1993, letter, that the SIP revision did not contain contingency measures which adequately addressed the requirements of section 172(c)(9). EPA requested that contingency measures be developed which would address sources that modeling indicates contribute to maximum predicted concentrations. MDNR and Doe Run agreed to the required changes at meetings held October 18 and 19, 1993. The changes to the SIP were adopted by the MACC, after proper notice and public hearing, on March 31, 1994.

The contingency measures in the SIP will be invoked if, beginning with the calendar quarter following the attainment date, an exceedance of the lead NAAQS is recorded. MDNR will

notify Doe Run-Buick of the exceedance, and implementation of all of the contingency measures will begin within 60 days from Doe Run's receipt of that notification.

H. Enforceability

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), 110(a)(2)(A), and 57 FR 13556). The state submittal includes a Consent Order entered into by the state and the Company which contains all of the control and contingency measures, with enforceable dates for implementation.

The submittal also includes an amendment to Missouri rule 10 CSR 10–6.120 which establishes emission limits for all stack emissions and production limits from the lead production processes for each operating scenario. Missouri rule 10 CSR 10–6.120 contains provisions which are applicable to other lead smelters in the state. EPA proposes approval of this rule only as it relates to Doe Run-Buick. Any EPA actions on this rule with regard to other lead smelters will occur through separate **Federal Register** rulemakings.

A Buick Work Practice Manual is also included with the SIP revision. The Work Practice Manual serves as an enforcement document for the state and EPA. These work practices are designed to limit the fugitive emissions at the facility, and are enforced through recordkeeping requirements. Noncompliance with the established work practices is a violation of Missouri rule 10 CSR 10–6.120. EPA approves the Work Practice Manual with the understanding that any change to the Work Practice Manual requires a revision to the Missouri SIP.

IV. Implications of This Action

This SIP revision will significantly impact the current SIP. The modeling performed in support of the SIP revision indicates that the emissions control strategy will result in attainment of the NAAQS for lead upon resumption of primary lead production. The modeling also indicates that, while operating as a secondary smelter, no additional controls are required to ensure that emissions remain below the NAAQS for lead. In addition, Missouri rule 10 CSR 10–6.120 has been amended such that emission limits for all stack sources and production limits for lead production processes have been established for each operating scenario.

EPA ACTION: By this action EPA approves Missouri's July 2, 1993; June 30, 1994; and November 23, 1994, submittals. This SIP revision meets the requirements of section 110 and Part D of the Clean Air Act and 40 CFR Part 51.

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 the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice 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.

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

Under 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, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP, the state and any affected local governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to state or local governments in the aggregate or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 1995. 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, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: July 11, 1995.

Dennis Grams, P.E.,

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 AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(89) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(89) In submittals dated July 2, 1993; June 30, 1994; and November 23, 1994, the Missouri Department of Natural Resources (MDNR) submitted a State Implementation Plan (SIP) to satisfy Federal requirements for an approvable nonattainment area lead SIP for the Doe Run primary and secondary smelter near Bixby, Missouri (Doe Run-Buick). Although Missouri rule 10 CSR 10–6.120 contains requirements which apply statewide to primary lead smelting operations, EPA takes action on this rule insofar as it pertains to the Doe Run-Buick facility. Plan revisions to address the other lead smelters in the state are under development.

(i) Incorporation by reference.

(A) Revised regulation 10 CSR 10–6.120 (section (2)(C), section (4)) entitled Restriction of Emissions of Lead from Primary Smelter-Refinery Installations, effective August 28, 1994.

(B) Consent Order, entered into between the Doe Run Company and MDNR, dated July 2, 1993.

(C) Consent Order amendment, signed by the Doe Run Company on August 30, 1994, and by MDNR on November 23, 1994.

(ii) Additional material.

(A) The Doe Run-Buick Work Practice Manual submitted on July 2, 1993. EPA approves the Work Practice manual with the understanding that any subsequent changes to the Work Practice Manual will be submitted as SIP revisions.

(B) Revisions to the Doe Run-Buick Work Practice Manual submitted on June 30, 1994.

[FR Doc. 95–19215 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WVA10–1–5918a; FRL–5265–7]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) at or above specified actual emission threshold levels. This program applies to certain stationary sources within the West Virginia counties of Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier. The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_X, within the counties listed above, in accordance with the 1990 Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This action will become effective September 18, 1995 unless notice is received on or before September 5, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be mailed to Marcia L. Spink, Associate Director (3AT00), Air Programs, 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 following location: Environmental Protection Agency, Region III, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107; and the West Virginia Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597–4713.

SUPPLEMENTARY INFORMATION: On August 10, 1993, the West Virginia Office of Air Quality (WVOAQ) submitted a SIP revision to EPA. This revision would add West Virginia Regulation Title 45, Series 29, ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions,'' consisting of Subsections: 1. General; 2. Definitions; 3. Applicability; 4. Compliance Schedule; 5. Emission Statement Requirements; 6. Enforceability; and 7. Severability, effective July 7, 1993 in the State of West Virginia to the West Virginia SIP.

I. Background

The air quality planning and 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. EPA published a ''General Preamble'' describing EPA's preliminary views on how it 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 also issued a draft guidance document describing the requirements for the emission statement programs discussed in this action, entitled ''Guidance on the Implementation of an Emission Statement Program'' (July, 1992). The Agency is also conducting a rulemaking process to modify title 40, part 51 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 ozone nonattainment areas, which are also made applicable by section 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the State each year emission statements certifying their actual emissions of VOCs and NO_X. This section of the Act provides that the States are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOC or NO_X at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

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 emissions factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA.

At minimum, the emission statement data should include:

—Certification of data accuracy;

—Source identification information;

—Operating schedule;

—Emissions information (to include 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. EPA's Evaluation of West Virginia's Submittal

A. Procedural Background

In accordance with the requirements of 40 CFR § 51.102, a public hearing concerning West Virginia's SIP revision was held on June 23, 1993, in Charleston, West Virginia to solicit public comment on the implementation plan for the State. Following the public hearing, the plan was adopted by the State and signed by the Governor's designee on July 7, 1993 and submitted to EPA on August 10, 1993 as a revision to the SIP.

B. Components of West Virginia's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, West Virginia must submit a revision to its SIP which consists of an emission statement program which meets the minimum requirements for reporting by the sources and the State. For the emission statement program to be approvable, West Virginia's SIP revision must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Subsection 45–29–2. Definitions, includes, among others, definitions for the following terms: Actual emissions; Annual fuel process rate; Control efficiency; Control equipment identification code; Emission factor; Emission statement; Estimated emission method code; Estimated emission units; Facility; Measured emission methods code; Measured emission units; Owner or operator; Oxides of nitrogen; Ozone season; Percentage seasonal throughput; Person; Point; Potential to emit; Typical ozone season day; and Volatile organic compounds.

Subsections 45–29–1. General; 45–29–3. Applicability; 45–29–6. Enforceability; and 45–29–7. Severability require that a person who owns or operates any installation, source, or premises to report the levels of emissions from all stationary sources of VOCs and NO_X. The state may, with EPA's approval, waive the Emission Statements requirements for classes or categories for stationary sources with facility-wide actual emissions of less than 25 tpy of VOC or NO_X, if the class or category is included in the Base Year ozone and Periodic ozone inventories are calculated using EPA approved emission factors or other methods acceptable to EPA. Subsection 45–29–5. Emission Statement Requirements, requires that a certifying official for each facility provide West Virginia with a statement reporting emissions by May 13, in 1993, and by April 15 of every year thereafter for the emissions discharged during the previous calendar year. This subsection of the regulation also delineates specific requirements for the content of these annual emission statements.

C. Enforceability

The State of West Virginia has provisions in its SIP which ensure that the emission statement requirements of West Virginia Regulation Title 45, Series 29, ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions,'' are adequately enforced.

EPA has determined that the submittal made by the State of West Virginia satisfies the relevant requirements of the CAA and EPA's guidance document, ''Guidance on the Implementation of an Emission Statement Program'' (July 1992).

III. Final Action

EPA is approving a revision to the West Virginia SIP to include Regulation Title 45, Series 29, ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions.'' This revision was submitted to EPA by the State of West Virginia on August 10, 1993.

EPA is approving this SIP revision 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, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective September 18, 1995 unless, within 30 days of publication, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice 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. 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 on September 18, 1995.

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

Under 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. Redesignation of an area to attainment under section 107(d)(3)(E) of the Act 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. 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 any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410 (a) (2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules

that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this regulatory action from E.O. 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 October 3, 1995. 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 approving West Virginia's Emission Statement Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by Reference, Intergovernmental relations, Volatile organic compounds, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

Dated: July 14, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraphs (c)(34) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(34) Revisions to the West Virginia State Implementation Plan submitted by the Secretary, West Virginia Department of Commerce, Labor, and Environmental Resources, Office of Air Quality, on August 10, 1993.

(i) Incorporation by reference.

(A) Letter dated August 10, 1993 from the Secretary, West Virginia Department of Commerce, Labor, and Environmental Resources, Office of Air Quality submitting 45 Code of State Regulations (CSR) Series 29 ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions'' as a revision to the West Virginia State Implementation Plan. The effective date of this rule, 45CSR29 is July 7, 1993.

(B) West Virginia Regulation Title 45, Series 29, ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions,'' consisting of Subsections: 1. General; 2. Definitions; 3. Applicability; 4. Compliance Schedule; 5. Emission Statement Requirements; 6. Enforceability; and 7. Severability, effective July 7, 1993.

(ii) Additional Material.

(A) Remainder of August 10, 1993 State submittal pertaining to 45 CSR Series 29, ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions.''

(B) [Reserved]

[FR Doc. 95–19272 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[WV27–1–7013a, WV27–2–7014a; FRL–5265–9]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Greenbrier County WV Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a redesignation request and two State Implementation Plan (SIP) revisions submitted by the State of West Virginia. The first SIP revision is the 1990 base year ozone inventory for Greenbrier County. The second SIP revision establishes and requires a maintenance plan for the Greenbrier County area including contingency measures which provide for continued attainment of the ozone National Ambient Air Quality Standard (NAAQS). The intended effect of this action is to approve the 1990 base year ozone inventory, a redesignation request and the maintenance plan for Greenbrier County. On December 22, 1992 the West Virginia Department of Commerce, Labor & Environmental Resources submitted an ozone inventory for 1990. On September 9, 1994, the West Virginia Division of Environmental Protection (WVDEP) submitted a request to redesignate Greenbrier County from nonattainment to attainment. On September 9, 1994, the WVDEP also submitted a maintenance plan for Greenbrier County as a revision to the West Virginia State Implementation Plan. This action is being taken under sections 107 and 110 of the Clean Air Act (the Act).

DATES: This action will become effective September 18, 1995 unless notice is received on or before September 5, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 597–0545.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990 the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

Under section 107(d)(1) of the Act, in conjunction with the Governor of West Virginia, EPA was required to designate Greenbrier County as nonattainment because the area violated the ozone standard in 1987–1989.

Air quality data, recorded in the Greenbrier County area, met the ozone NAAQS from 1989–1991 and has subsequently continued to indicate attainment and maintenance through 1994. West Virginia submitted a ozone maintenance SIP and redesignation request on September 9, 1994.

II. Review of West Virginia's Submittal

Following is a brief description of how the State of West Virginia's September 9, 1994 submittal fulfills the five requirements of section 107(d)(3)(E) of the Act. 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. Because the base year emissions inventory is an integral element of the maintenance plan, EPA will discuss its evaluation under its analysis of the maintenance plan. A Technical Support Document (TSD) has also been prepared by EPA on these rulemaking actions. The TSD is available for public inspection at the EPA Regional office listed in the **ADDRESSES** section of this notice.

1. Attainment of the Ozone NAAQS

The submittal contains an analysis of ozone air quality data which is relevant to the maintenance plan and to the redesignation request for the Greenbrier County ozone nonattainment area. Ambient ozone monitoring data for 1989 through 1994 show attainment of the ozone NAAQS in Greenbrier County, West Virginia. *See* 40 CFR 50.9 and appendix H. The State of West Virginia's request for redesignation included documentation that the entire area has complete quality assured data showing attainment of the standard over the most recent consecutive three calendar year period. Therefore the area has met the first statutory criterion of attainment of the ozone NAAQS. West Virginia has also met the second statutory criterion by committing to continue monitoring the air quality in this area in accordance with the Act's requirements as prescribed in 40 CFR part 58.

2. Meeting Applicable Requirements of Section 110 and Part D

As previously stated, EPA fully approved the State of West Virginia SIP for Greenbrier County, West Virginia as meeting the requirements of section 110(a)(2) and Part D of the 1977 Act. The Clean Air Act Amendments of 1990, however, 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, EPA has reviewed the SIP and determined that it contains all measures that were due under the Act prior to September 9, 1994, the date the State of West Virginia submitted its redesignation request satisfying the completeness criteria of 40 CFR Part 51 Appendix V.

2.A. Section 110 Requirements

Although section 110 of the 1977 Act was amended in 1990, the Greenbrier County, West Virginia SIP meets the requirements of section 110 (a)(2) of the amended Act. A number of the requirements did not change in substance and, therefore, EPA believes that the preamendment SIP met these requirements. As to those requirements that were amended many duplicate other requirements of the Act (see 57 FR 27936 and 23939, June 23, 1992). EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2) of the Act. The SIP contains enforceable emission limitations adequate to produce attainment, requires monitoring, compiling, and analyzing ambient air quality data. It provides for adequate funding, staff, and associated resources necessary to implement SIP requirements, and requires stationary source emissions monitoring and reporting.

2.B. Part D Requirements

2.B.1. Subpart 1 of Part D—Section 172(c) Plan Provisions

Under section 172(b), the section 172(c) requirements are applicable no later than three years after an area has been designated as nonattainment under the Act. For Greenbrier County which was first designated nonattainment on January 6, 1993, these section 172(c) requirements would have become due January 6, 1995. Therefore, these section 172(c) requirements were not applicable to ozone nonattainment areas on or before September 9, 1994—the date the State of West Virginia submitted a complete redesignation request and maintenance plan for Greenbrier County. The Greenbrier County area currently has a fully approved New Source Review (NSR) program. Upon redesignation of this area to attainment, the prevention of significant deterioration provisions (PSD) contained in part C of title I of the Act are applicable. EPA approved West Virginia's PSD program on April 11, 1986 (51 FR 12517) which, under the approved SIP, applies in all designated attainment areas.

2.B.2. Subpart 1 of Part D—Section 176 Conformity Plan Provisions

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 State 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 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 the conformity regulations would establish submittal dates (see 57 FR 13498, 13557 (April 16, 1992)). The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 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 § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of West Virginia is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule November 25, 1994. Similarly, West Virginia 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 had not yet come due before September 9, 1994, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request. West Virginia has adopted transportation and general conformity regulations and submitted these

complete regulations as revisions to the West Virginia SIP on November 13, 1994. The West Virginia conformity SIP revisions are the subject of separate rulemaking actions.

2.B.3. Subpart 2 of Part D—Section 182 Provisions for Ozone Nonattainment Areas

The Greenbrier County nonattainment area is classified as marginal and is subject to the requirements of section 182(a) of the Act. As of September 9, 1994, the State was required to meet the emission inventory requirement of section 182(a)(1) and the emissions statement program requirement of section 182(a)(3)(b).

Section 182(a)(1) required an emissions inventory as specified by section 172(c)(3) of actual emissions of carbon monoxide (CO), volatile organic compounds (VOC) and nitrogen oxides (NO_X) from all sources by November 15, 1992. On December 22, 1992, West Virginia submitted an emissions inventory for 1990 (the ''base year inventory'') which EPA determined to be complete on April 16, 1993. Section 182(a)(3)(B) required a SIP revision by November 15, 1992 to require stationary sources of VOC and NO_X emissions to report the actual emissions of these pollutants annually. On November 12, 1992, West Virginia submitted 45CSR29 ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions And Oxides of Nitrogen Emissions''. EPA is approving the base year inventory as part of this rulemaking action. EPA is approving West Virginia Regulation Title 45, Series 29, ''Rule Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions and Oxides of Nitrogen Emissions'' in a separate rulemaking action also being published in today's **Federal Register**.

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

EPA has determined that the State of West Virginia has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and Part D as discussed above. Therefore, the redesignation requirement of section 107(d)(3)(E)(ii) has been met.

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

Under the 1977 Act, EPA approved the State of West Virginia SIP control strategy for the Greenbrier County, West Virginia area. EPA determined that the rules and the emission reductions achieved as a result of those rules are enforceable.

Several other enforceable control measures have come into place since the Greenbrier County, West Virginia area violated the ozone NAAQS. Reductions in ozone precursor emissions occurred due to the mandatory lowering of fuel volatility and automobile fleet turnover due to the Federal Motor Vehicle Control Program. The Reid Vapor Pressure (RVP) of gasoline decreased during the years 1990 to 1992 from 9.5 pounds per square inch (psi) to 9.0 psi. Reductions due to these programs were determined using the mobile emission inventory model MOBILE 5.0a and relevant vehicle miles traveled (VMT) data. As a result of these permanent and enforceable reductions, VOC emissions decreased by 0.24 tons/day (1988–1990) and by 0.48 tons/day (1988–1993) in Greenbrier County. Emissions of NO_X were reduced by 0.10 tons/day and 0.19 tons/day during the same periods respectively in this area. The State of West Virginia's maintenance plan requires the continuation of the federal RVP program. The State demonstrated that point source VOC emissions were not artificially low due to local economic downturn during the period in which Greenbrier County air quality came into attainment. Reductions due to decreases in production levels or from other unenforceable scenarios such as voluntary reductions were not included in the determination of the emission reductions.

EPA finds that the combination of measures contained in the SIP and federal measures have resulted in permanent and enforceable reductions in ozone precursors that have allowed Greenbrier County to attain the NAAQS, and therefore, that the redesignation criterion of section 107(d)(3)(E)(iii) has been met.

5. Fully Approved Maintenance Plan Under Section 175A

EPA is approving the West Virginia maintenance plan for the Huntington, West Virginia area because EPA finds that West Virginia's submittal meets the requirements of section 175A of the Act. The Greenbrier County, West Virginia area will have a fully approved maintenance plan in accordance with section 175A of the Act. Section 175A of the Act 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 area is redesignated. 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.

5.A. Emissions Inventory—Base Year Inventory

On December 22, 1992, the State of West Virginia submitted comprehensive inventories of VOC, CO and NO_X emissions from area, stationary, and mobile sources for 1990. This inventory was used as the basis for calculations to demonstrate maintenance. West Virginia projected their 1990 inventory to 1993 in order to have a base year inventory corresponding to 1993 which was selected as the attainment base year. The 1993 VOC, NO_X, and CO inventory is considered representative of attainment conditions because no violations occurred in 1993, and it reflects the typical inventory for the most recent, as of September 1994, three-year period demonstrating attainment of the ozone NAAQS standard in Greenbrier County.

West Virginia's submittal contains the detailed inventory data and summaries by source category. West Virginia's submittal also contains information related to how it comported with EPA's guidance, which model and emission factors were used (note MOBILE 5.0a was used), how VMT data was generated, what RVP was considered in the base year, and other technical information verifying the validity of the Greenbrier County West Virginia emission inventory. A summary of the base year and projected maintenance year inventories are shown in the following tables in section 5.B.

5.B. Demonstration of Maintenance-Projected Inventories

Below, totals for VOC and NO_X emissions were projected from the 1990 base year out to 2005. These projected inventories were prepared in accordance with EPA guidance. Refer to EPA's TSD for more in-depth details regarding the projected inventory for the nonattainment areas.

GREENBRIER COUNTY—VOC PROJECTION INVENTORY SUMMARY (TONS PER DAY)

	1990 base year	1993 attain base	1996 proj.	1999 proj.	2002 proj.	2005
Point	0.04	0.04	0.05	0.05	0.05	0.05
Area	3.41	3.48	3.59	3.71	3.84	3.99
Mobile	3.83	3.36	3.26	3.22	3.21	3.29
Total	7.28	6.88	6.90	6.98	7.10	7.33

GREENBRIER COUNTY—NO_X PROJECTION INVENTORY SUMMARY (TONS PER DAY)

	1990 base year	1993 attain base	1996 proj.	1999 proj.	2002 proj.	2005 proj.
Point	0.14	0.15	0.16	0.16	0.17	0.17
Area	0.59	0.59	0.59	0.59	0.59	0.59
Mobile	5.00	4.82	4.71	4.62	4.57	4.68
Total	5.73	5.56	5.46	5.37	5.33	5.44

As indicated in the previous tables, a decrease in NO_X emissions is projected in the Greenbrier County nonattainment area throughout the maintenance period. A slight increase in VOC emissions is projected for the Greenbrier County nonattainment area. However, this projected emissions increase of 0.45 tons/day from 1993 to 2005 (of 0.05 tons/day from 1990 to 2005) is not expected to affect maintenance of the ozone NAAQS in this rural area. These projections do not consider the effect of future federal measures that are under a court-ordered promulgation deadline. Such measures include, but are not limited to, those for heavy duty diesel engines (see 59 FR 31306, June 17, 1994), small spark-ignition gasoline engines (see 59 FR 25399, May 16, 1994) and marine engines (see 59 FR 55930, November 9, 1994). These measures are expected to keep the Greenbrier County VOC emissions under the 1990 base year level.

There were no measured exceedances of the ozone NAAQS in 1990. As discussed earlier, Greenbrier County has continued to monitor attainment of the ozone NAAQS through 1994. EPA believes that these emissions projections demonstrate that the nonattainment area will continue to maintain the ozone NAAQS.

EPA does not believe that photochemical modelling would be useful in the case of Greenbrier County for assessing the effects of the projected VOC emissions increase. The natural, biogenic emissions in the Greenbrier County VOC inventory exceed 86 tons per day in 1990 and are projected to remain the same throughout the maintenance period. The increases in the total (biogenic plus anthropogenic) VOC inventory to be modeled are too small.

5.C. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in Greenbrier County depends, in part, on the State of West Virginia's efforts toward tracking indicators of continued attainment during the maintenance period. The State of West Virginia will track the status and effectiveness of the maintenance plan by periodically updating the emissions inventory every three years. West Virginia has committed to perform this tracking on a triennial basis in order to enable the State of West Virginia to implement the contingency measures of its maintenance plan as expeditiously as possible.

The State of West Virginia update will indicate new source growth, as indicated by annual emission statements. The State of West Virginia will continue to monitor ambient ozone levels by operating its ambient ozone air quality monitoring network in accordance with 40 CFR part 58.

5.D. Contingency Plan

The level of VOC and NO_X emissions in Greenbrier County will largely determine its ability to stay in compliance with the ozone NAAQS. Despite the State of West Virginia's best efforts to demonstrate continued compliance with the NAAQS, Greenbrier County may exceed or violate the NAAQS. Therefore, West Virginia has provided contingency measures with a schedule for implementation in the event of future ozone air quality problems. In the event that exceedances of the ozone NAAQS are measured such that nonattainment is indicated at the monitor in Greenbrier County, or in the event that periodic emission inventory updates or major permitting activity reveals that excessive or unanticipated growth in ozone precursor emissions has occurred or will occur, West Virginia will accordingly select and adopt additional measures including one or more of the following to assure continued attainment:

1. Application of VOC/NO_X reasonably available control technology (RACT) requirements or similar emission limitations on stationary sources,

2. A revision to new source permitting requirements requiring more stringent emissions control technology and/or emission offsets.

One or more of these regulatory revisions would be selected and a draft regulation(s) developed by the West Virginia Division of Environmental Protection (WVDEP) for adoption as an emergency rule(s) within three (3) months after verification of a monitored ozone standard violation. WVDEP's adopted emergency rule(s) for the selected control measure(s) will be implemented within six (6) months after adoption and will be filed as legislative rule(s) for permanent authorization by the legislature as required under West Virginia law.

5.E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the State of West Virginia 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.

EPA has determined that the maintenance plan adopted by the State of West Virginia and submitted to EPA

on September 9, 1994 meets the requirements of section 175A of the Act. Therefore, EPA is approving the maintenance plan.

EPA is approving this SIP revision 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, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 18, 1995 unless by September 5, 1995, adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice 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. 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 on September 18, 1995.

Final Action

EPA is approving the ozone maintenance plan for Greenbrier County in West Virginia submitted on September 9, 1994 because it meets the requirements of section 175A. EPA is approving the 1990 base year ozone inventory for Greenbrier County. In addition, the Agency is redesignating the Greenbrier County area to ozone attainment because the Agency has determined that the provisions of section 107(d)(3)(E) of the Act for redesignation have been met.

The Greenbrier County nonattainment area is subject to the Act's requirements for marginal ozone nonattainment areas until and unless it is redesignated to attainment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 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. Redesignation of an area to attainment under section 107(d)(3)(E) of the Act 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. 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 any small entities affected.

Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410 (a) (2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this regulatory action from the requirements of section 6 of Executive Order 12866.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve West Virginia's redesignation request, base year ozone inventory, and maintenance plan for the Greenbrier County ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirement.

Dated: July 14, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(36) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(36) The ten year ozone maintenance plan including emission projections and contingency measures for Greenbrier County, West Virginia effective on September 1, 1994 and submitted by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 9, 1994 from the West Virginia Division of Environmental Quality transmitting the ozone maintenance plan for Greenbrier County.

(B) The ten year ozone maintenance plan including emission projections and contingency measures for Greenbrier County, West Virginia effective on September 1, 1994.

(ii) Additional Material.

(A) Remainder of September 9, 1994 State submittal pertaining to the maintenance plan referenced in paragraph (c)(36)(i) of this section.

(B) [Reserved]

3. Section 52.2531 is added to read as follows:

§ 52.2531 1990 base year emission inventory.

EPA approves as a revision to the West Virginia State Implementation Plan the 1990 base year emission inventories for the Greenbrier county ozone nonattainment area submitted by the Secretary, West Virginia Department of Commerce, Labor & Environmental Resources on December 22, 1992. These submittals consist of the 1990 base year point, area, non-road mobile, biogenic and on-road mobile source emission inventories in Greenbrier County for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_X).

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671.

Subpart C—Section 107 Attainment Status Designations

4. In § 81.349 the ozone table is amended by revising the entry for Greenbrier County to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA.—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date	Type
* * * * * * *				
Greenbrier Area:				
Greenbrier County	September 18, 1995	Unclassifiable/Attainment		
* * * * * * *				

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

[FR Doc. 95–19274 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD–FRL–5270–3]

Clean Air Act Final Interim Approval of the Operating Permits Program for the Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the title V operating permits program submitted by the Sacramento Metropolitan Air Quality Management District (District) for the purpose of complying with federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. In addition, today's action grants final approval to the District's mechanism for receiving delegation of section 112 standards as promulgated.

EFFECTIVE DATE: September 5, 1995.

ADDRESSES: Copies of the District's submittals and other supporting information used in developing the final approvals are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ed Pike (telephone 415/744–1248), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70, require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

On June 6, 1995, EPA proposed interim approval of the operating permits program for the Sacramento Metropolitan Air Quality Management District. See 60 FR 29809. The **Federal Register** document also proposed approval of the District's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. In this notice, EPA is promulgating interim approval of the District's operating permits program and approving the section 112(g) and section 112(l) mechanisms.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating interim approval of Sacramento's title V operating permits program as submitted on August 1, 1994. The District's program substantially, but not fully, meets the requirements of part 70 and meets the interim approval requirements under 40 CFR 70.4. The program revisions necessary for full approval are unchanged from the proposal. See 60 FR 29809 (June 6, 1995).

The scope of this approval of the District's part 70 program applies to all part 70 sources (as defined in the approved program) within Sacramento County except any sources of air

pollution over which an Indian tribe has jurisdiction. *See, e.g.,* 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the Act; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until September 4, 1997. During this interim approval period, the District is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permits program in the District. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If Sacramento fails to submit a complete corrective program for full approval by March 4, 1997, EPA will start an 18-month clock for mandatory sanctions. If the District then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the District has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the District has come into compliance. In any case, if, six months after application of the first sanction, the District still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Sacramento's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the District has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the District has come into compliance. In all cases, if, six months after EPA applies the first sanction, the District has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if Sacramento has not submitted a timely and complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the District program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for the District upon interim approval expiration.

B. County Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Sacramento's preconstruction review program found in the District's preconstruction permitting program (rule 202) and the District's New Source Review Guidelines for Toxics (Appendix B–6 of the submittal) as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and the District's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by the District to implement 112(g). The final 112(g) rule will determine the deadline for Sacramento to adopt a 112(g) rule.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program approval, specified in 40 CFR section 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR section 63.91 of the District's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. This program for delegations applies to both existing and future standards but is limited to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the Sacramento's submittal and other information relied upon for the final interim approval, including the public comment letter received by EPA, are contained in the docket at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from review under Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's action under section 502 of the Act does not create any new requirements, but simply addresses operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

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

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

no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 21, 1995.

John Wise,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (w) to the entry for California as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

(w) *the Sacramento Metropolitan Air Quality Management District:* (complete submittal received on August 1, 1994); interim approval effective on September 5, 1995; interim approval expires September 4, 1997.

* * * * *

[FR Doc. 95–19001 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

41 CFR Chapter 114

RIN 1090–AA53

Internal Directives and Procedures Governing Property Management Program

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Final rule.

SUMMARY: The Department of the Interior has amended the internal directives and procedures governing its property management program. The Department of the Interior is now deleting text from the Code of Federal Regulations. This text, which does not affect the public, is being deleted because it duplicates the test in other internal directives. The intended effect is to eliminate duplicate regulations and thereby simplify the regulatory structure.

EFFECTIVE DATE: This rule is effective September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Robert E. Lomax, Office of Acquisition and Property Management, ms 5512–MIB, U.S. Department of the Interior, Washington, DC 20240, Phone: (202) 208–3337.

SUPPLEMENTARY INFORMATION: These property management regulations govern the internal actions of the Department of the Interior and its bureaus. Inasmuch as the content of these regulations is set forth in greater detail in the Department of the Interior's internal Property Management Directives (IPMD), the Department has determined that it is no longer necessary to maintain these regulations in 41 CFR Chapter 114.

This rule was not subject to Office of Management and Budget review under E.O. 12866. Because these procedures govern only internal management actions of the DOI, this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The DOI has further determined that these regulations will not significantly affect the environment.

An environmental impact statement is not required under the National Environmental Policy Act of 1969. Because the Department, by removing these regulations, is simply relying on more comprehensive internal directives which are already in place, the Department for good cause, within the meaning of 5 U.S.C. 553(b)(B), finds that notice and public comment on the rule are not required. Finally, the DOI has determined that the rule has no federalism implications affecting the relationship between the national government and the states as outlined in Executive Order 12612.

This rule does not contain information collection requirements which require approval by the office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary author of this document is Robert E. Lomax, Chief, Division of Property Management, Office of Acquisition and Property Management, U.S. Department of the Interior.

List of Subjects in 41 CFR Chapter 114 (Parts 114–1—114–60)

Administrative practice and procedure, Federal buildings and facilities, Government property management, Handicapped, Housing, Metals, Motor vehicles, Surplus Government property, Transportation, Grant programs, Loan programs, Manufactured homes, Relocation assistance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under this authority of 5 U.S.C. 301, 41 CFR Chapter 114 is removed as set forth below.

Dated: July 25, 1995.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

Part 114–1 [Removed]

1. Part 114–1 is removed.

Part 114–3 [Removed]

2. Part 114–3 is removed.

Part 114–19 [Removed]

3. Part 114–19 is removed.

Part 114–25 [Removed]

4. Part 114–25 is removed.

Part 114–26 [Removed]

5. Part 114–26 is removed.

Part 114–27 [Removed]

6. Part 114–27 is removed.

Part 114–28 [Removed]

7. Part 114–28 is removed.

Part 114–30 [Removed]

8. Part 114–30 is removed.

Part 114–38 [Removed]

9. Part 114–38 is removed.

Part 114–40 [Removed]

10. Part 114–40 is removed.

Part 114–41 [Removed]

11. Part 114–41 is removed.

Part 114–42 [Removed]

12. Part 114–42 is removed.

Part 114–43 [Removed]

13. Part 114–43 is removed.

Part 114–44 [Removed]

14. Part 114–44 is removed.

Part 114–45 [Removed]

15. Part 114–45 is removed.

Part 114–46 [Removed]

16. Part 114–46 is removed.

Part 114–47 [Removed]

17. Part 114–47 is removed.

Part 114–50 [Removed]

18. Part 114–50 is removed.

Subpart 114–51.1 Appendix I [Removed]

19. Subpart 114–51.1 Appendix is removed.

Part 114–60 [Removed]

20. Part 114–60 is removed.

[FR Doc. 95–19081 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–RF–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATE: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Hartford County (FEMA Docket No. 7129).	Town of Berlin	February 6, 1995, February 13, 1995, The Herald.	The Honorable Robert J. Peters, Mayor of the Town of Berlin, 240 Kensington Road, Berlin, Connecticut 06037.	January 30, 1995.	090022 D
Connecticut: New Haven County (FEMA Docket No. 7127).	Town of Madison	January 4, 1995, January 11, 1995, Shoreline Times.	Mr. Thomas Rylander, First Selectman for the Town of Madison, Eight Campus Drive, Madison, Connecticut 06443.	December 22, 1994.	090079 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Orange County (FEMA Docket No. 7127).	Unicorporated Areas	January 18, 1995, January 25, 1995, Orlando Sentinel.	Ms. Jean Bennett, Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802–1393.	January 11, 1995.	120179 F
Georgia: Cobb County (FEMA Docket No. 7127).	Unicorporated Areas	January 17, 1995, December 6, 1994, December 13, 1994, Marietta Daily Journal.	Mr. William J. Byrne, Chairman of the Board of Commissioners, 100 Cherokee Street, Suite 300, Marietta, Georgia 30090–9680.	November 29, 1994.	130052
Georgia: Gwinnett County (FEMA Docket No. 7127).	Unincorporated Areas	January 10, 1995, January 17, 1995, Gwinnett Post Tribune.	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Supervisors, 75 Langley Drive, Lawrenceville, Georgia 30245.	April 17, 1995 ...	130322
Illinois: Unincorporated Areas (FEMA Docket No. 7127).	Cook County	September 2, 1994, September 9, 1994, The Chicago Tribune.	Mr. Richard J. Phelan, President of the Cook County Board of Commissioners, 118 North Clark Street, Suite 537, Chicago, Illinois 60602.	August 26, 1994	170054 B
Indiana: Vigo County (FEMA Docket No. 7127).	Unicorporated Areas	December 30, 1994, January 6, 1995, Tribune-Star.	Mr. John A. Scott, President of the Vigo County Board of Commissioners, Vigo County Security Annex, 201 Cherry Street, Terre Haute, Indiana 47807.	April 5, 1995	180263
North Carolina: Gaston County (FEMA Docket No. 7127).	City of Gastonia	January 17, 1995 January 24, 1995 The Gaston Gazette.	The Honorable James B. Garland, Mayor of the City of Gastonia, P.O. Box 1748, Gastonia, North Carolina 28053–1748.	January 10, 1995.	370100 D
North Carolina: Pitt County (FEMA County No. 7123).	City of Greenville	November 23, 1994, November 30, 1994, Daily Reflector.	The Honorable Nancy M. Jenkins, Mayor of the City of Greenville, P.O. Box 7207, Greenville, North Carolina 27835–7207.	March 1, 1995 ..	370191 B
Ohio: Miami County (FEMA Docket No. 7123).	Unicorporated Areas	November 23, 1994, November 30, 1994, Troy Daily News.	Mr. Richard Adams, President of the Miami County Commissioners, 201 West Main Street, Troy, Ohio 45373.	May 16, 1995	390398 B
Ohio: Franklin and Delaware Counties (FEMA Docket No. 7127).	City of Westerville	January 18, 1995, January 25, 1995, Westerville News and Public Opinion.	Mr. David Lindimore, Manager of the City of Westerville, 21 South State Street, Westerville, Ohio 43081.	April 25, 1995 ...	390179 F
Pennsylvania: Berks County (FEMA Docket No. 7127).	Borough of Wyomissing ...	December 19, 1994, December 26, 1994, Times-Eagle.	Mr. David Y. Bausher, Manager of the Borough of Wyomissing, 22 Reading Boulevard, Wyomissing, Pennsylvania 19610–2083.	December 12, 1994.	421375 A
South Carolina: Lexington County (FEMA Docket No. 7127).	Unicorporated Areas	December 14, 1994, December 21, 1994, The State.	Mr. Bruce Rucker, Chairman of the Lexington County Council, 212 South Lake Drive, Lexington, South Carolina 29072.	December 7, 1994.	450129

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tennessee: Shelby County (FEMA Docket No. 7129).	Unicorporated Areas	January 27, 1995, February 3, 1995, Daily News.	Mr. James Kelly, Shelby County Chief Administrative officer, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	January 20, 1995.	470214 E
Wisconsin: La Crosse County (FEMA Docket No. 7104).	City of La Crosse	June 8, 1994, June 15, 1994, La Crosse Tribune.	The Honorable Patrick Zielke, Mayor of the City of La Crosse, 400 La Crosse Street, La Crosse, Wisconsin 54601.	June 2, 1994	555562 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: July 28, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–19217 Filed 8–3–95; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 65

[Docket No. FEMA–7141]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Orange	Unincorporated Areas of Orange County.	June 23, 1995, June 30, 1995, *The Orlando Sentinel.*	Mr. Ajit Lalchandani, P.E., Acting Director, 4200 South John Young Parkway, Orlando, Florida 32839–9205.	May 22, 1995	120179 D
Illinois: Lake and Cook.	Village of Deerfield .	April 20, 1995, April 27, 1995, *Deerfield Review.*	The Honorable Bernard Forrest, 850 Waukegan Road, Deerfield, Illinois 60015.	April 13, 1995	170361
North Carolina: Dare.	Unincorporated Areas of Dare County.	March 28, 1995, April 4, 1995, *The Coastland Times.*	Mr. Robert V. Owens, Chairman of the Dare County Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	March 20, 1995 ..	375348 D
North Carolina: Dare.	Unincorporated Areas.	June 6, 1995, June 13, 1995, *The Coastland Times.*	Mr. Robert V. Owens, Chairman of the Dare County Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	May 30, 1995	375348 D
Pennsylvania: Berks	Township of South Heidelberg.	May 31, 1995, June 7, 1995 , Reading Times-Eagle.	Mr. J. Philip Preston, Chairman of the Township of South Heidelberg Board of Supervisors, 68A North Galen Hall Road, Wernersville, Pennsylvania 19656.	May 24, 1995	421107 B
Tennessee: Sevier .	City of Sevierville ...	May 25, 1995, June 1, 1995, The Mountain Press.	The Honorable Bryan Atchley, Mayor of the City of Sevierville, P.O. Box 5500, Sevierville, Tennessee 37864–5500.	May 18, 1995	475444

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 28, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–19218 Filed 8–3–95; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	
East Lyme (Town), New London County (FEMA Docket No. 7128)	
Latimer Brook:	
Approximately .3 mile downstream of Rock Fill Dam	*79
Approximately 1,100 feet upstream of Chapman Drive	*98
Maps available for inspection at the Office of Zoning Enforcement, Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut.	
Montville (Town), New London County (FEMA Docket No. 7128)	
Latimer Brook:	
Approximately 380 feet upstream of Beckwith Road	*99
Approximately 280 feet downstream of Silver Falls Road	*150
Trading Cove Brook:	
Approximately 300 feet upstream of confluence of Ford Brook and Great Plain Brook	*30
Approximately 300 feet upstream of the confluence of Goldmine Brook	*71
Maps available for inspection at the Office of Planning and Zoning, 310 Norwich-New London Turnpike, Uncasville, Connecticut.	
Illinois	
Elmhurst (City), DuPage County (FEMA Docket No. 7130)	
Unnamed Ponding Area:	
Located north of Van Buren Street, south of Madison Street, east of Hillside Avenue, and west of Bryan Avenue	*662
Located north of Butterfield Road, south of Harrison Street, east of Spring Avenue, and west of Saylor Avenue	*661
Maps available for inspection at the Public Works Department, Elmhurst City Hall, 209 North York Street, Elmhurst, Illinois.	
MICHIGAN	
Midland (City), Bay and Midland Counties (FEMA Docket No. 7128)	
Chippewa River:	
At corporate limits (approximately 2.58 miles upstream of the confluence with Tittabawasee River)	*617
Approximately 1 mile upstream of corporate limits (approximately 3.53 miles upstream of the confluence with Tittabawasee River)	617
Inman Drain:	
At Dublin Road	*616
Approximately 1,375 feet upstream of Dublin Road	*617
Sturgeon Creek:	
Approximately .4 mile upstream of Cemetary Entrance Road	*616
Approximately .5 mile upstream of Cemetary Entrance Road	*616
Tittabawassee River:	
At Dublin Road	*617
Approximately 1.2 miles upstream of Dublin Road	*617
Maps available for inspection at the Midland City Planning Department, City Hall, 333 West Ellsworth, Midland, Michigan.	
NEW JERSEY	
Cape May Point (Borough) (FEMA Docket No. 7130)	
Atlantic Ocean:	
Approximately 100 feet southwest of the intersection of Harvard and Coral Avenues	*12
Approximately 300 feet southwest of the intersection of Harvard and Coral Avenues	*15
At the intersection of Pearl Avenue and Cape Avenue	*10
Maps available for inspection at the Cape May Point Municipal Building, Cape May Point, New Jersey.	
Delran (Township), Burlington County (FEMA Docket No. 7128)	
Swedes Run:	
Approximately 0.82 mile upstream of Broad Street	*12
Approximately 850 feet upstream of Bridgeboro Road	*34
Maps available for Inspection at the Township Clerk Office, 1050 Chester Avenue, Delran, New Jersey.	
NEW YORK	
Schroon (Town), Essex County (FEMA Docket No. 7128)	
Schroon Lake: Entire shoreline within community	*812
Paradox Lake: Entire shoreline within community	*824
Schroon River:	
At confluence with Schroon Lake	*812
At the upstream side of U.S. Route 9	*833
Paradox Creek:	
At confluence with Schroon River	*823
At downstream side of Fraternaland Road	*846
Maps available for inspection at the Town Hall, South Street, Schroon Lake, New York.	
Wilmington (Town), Essex County (FEMA Docket No. 7128)	
West Branch Ausable River:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 270 feet downstream of downstream corporate limit	*805
At State Route 86 (upstream crossing)	*1,075
Maps available for inspection at the Community Center, Springfield Road, Wilmington, New York.	
OHIO	
Florida (Village), Henry County (FEMA Docket No. 7130)	
Maumee River:	
Approximately 0.57 mile downstream of the Henry Street bridge	*663
Approximately 1,700 feet upstream of the Henry Street bridge	*665
Maps available for inspection at the Village of Florida Clerk's Office, East High Street, Route 2, Napoleon, Ohio.	
Henry County (Unincorporated Areas) (FEMA Docket No. 7130)	
Maumee River:	
Approximately 1.9 miles downstream of the confluence of Big Creek	*650
Approximately 2 miles upstream of County Road 2 (Henry Street)	*667
Maps available for inspection at the Henry County Planning Office, 104 East Washington Street, Hahn Center, Suite 301, Napoleon, Ohio.	
Laurelville (Village), Hocking County (FEMA Docket No. 7124)	
Laurel Run:	
Approximately 960 feet downstream of downstream corporate limits at the confluence with Salt Creek	*742
Approximately 50 feet upstream of upstream corporate limits	*745
Salt Creek:	
Approximately 0.5 mile downstream of the confluence of Laurel Run	*736
At the confluence of Laurel Run	*742
Maps available for inspection at the Office of the Mayor, Laurelville, Ohio.	
Meigs County (Unincorporated Areas) (FEMA Docket No. 7124)	
Ohio River:	
Approximately 5.0 river miles downstream of U.S. Route 33	*574
Approximately 4.5 river miles upstream of Belleville Dam	*603
Maps available for inspection at the Commissioners Office, Courthouse, Second Street, Pomeroy, Ohio.	
PENNSYLVANIA	
Allenport (Borough), Washington County (FEMA Docket No. 7128)	
Monongahela River:	
Approximately 0.4 mile downstream of Tributary 1	*766
Approximately 2.3 miles upstream of confluence of Hooder Run	*768
Maps available for inspection at the Borough Building, Main Street, Allenport, Pennsylvania.	
Belle Vernon (Borough), Fayette County (FEMA Docket No. 7128)	
Monongahela River:	
Approximately 40 feet upstream of bridge (I–70) (at downstream corporate limit)	*764
Approximately 0.88 mile upstream of bridge (I–70) (at upstream corporate limit)	*765
Maps available for inspection at the Borough Hall, 61 Sampson Street, Belle Vernon, Pennsylvania.	
Brownsville (Borough), Fayette County (FEMA Docket No. 7128)	
Monongahela River:	
Approximately 0.38 mile downstream of U.S. Route 40 bridge	*774
Approximately 1.09 miles upstream of Brownsville bridge	*775
Dunlap Creek:	
At confluence with Monongahela River	*775
Approximately 0.85 mile upstream of Brownsville Avenue bridge	*775
Maps available for inspection at the Borough Hall, 2nd and High Street, Brownsville, Pennsylvania.	
Brownsville (Township), Fayette County (FEMA Docket No. 7128)	
Monongahela River:	
Approximately 1,500 feet downstream of CONRAIL bridge	*773
Approximately 0.43 mile upstream of CONRAIL bridge	*774
Dunlap Creek:	
Approximately 750 feet downstream of CONRAIL bridge	*774
Approximately 1,870 feet downstream of CONRAIL bridge	*775
Redstone Creek:	
At the confluence with Monongahela River	*773
Approximately 0.83 mile upstream of CONRAIL bridge	*773
Maps available for inspection at the Tax Collector's Office, Union Street, Brownsville, Pennsylvania.	
Carroll (Township), Washington County (FEMA Docket No. 7128)	
Monongahela River:	
At downstream corporate limits	*756
Approximately 525 feet upstream of upstream corporate limits	*761
Pigeon Creek:	
Approximately 0.9 mile downstream of State Route 481	*756
At State Route 481	*756
Maps available for inspection at the Township Hall, 130 Baird Street, Carroll, Pennsylvania.	
Centerville (Borough), Washington County (FEMA Docket No. 7128)	
Monongahela River:	
Approximately 1.70 miles downstream of confluence of Two Mile Run	*775
Approximately 1.57 miles upstream of Maxwell Locks and Dam	*781
Maps available for inspection at the Borough Building, Route 40, National Pike West, Centerville, Pennsylvania.	
Eulalia (Township), Potter County (FEMA Docket No. 7128)	
Allegheny River:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 700 feet downstream of the Township of Eulalia's downstream corporate limits	*1579
Approximately 0.4 mile upstream of the Township of Eulalia's upstream corporate limits	*1632
Maps available for inspection with the Ms. June Bunnell, Township Secretary, RD 3, Coudersport, Pennsylvania.	
Marion Center (Borough), Indiana County (FEMA Docket No. 7120)	
Unnamed Tributary to Pine Run:	
Approximately 1,300 feet downstream of South Manor Street (State Route 403)	*1,257
Approximately 1,240 feet upstream of State Route 1025	*1,324
Tributary to Unnamed Tributary to Pine Run:	
At the confluence with Unnamed Tributary to Pine Run	*1,271
Approximately 0.6 mile upstream of confluence with Unnamed Tributary to Pine Run	*1,317
Maps available for inspection at the Marion Center Milling Company, 101 South Manor, Marion Center, Pennsylvania.	
Newell (Borough), Fayette County (FEMA Docket No. 7128)	
Monongahela River:	
At downstream corporate limits	*769
At upstream corporate limits	*771
Maps available for inspection at the Newell Borough Building, Second Street, Fayette City, Pennsylvania.	
Stroud (Township), Monroe County (FEMA Docket No. 7128)	
McMichaels Creek:	
At downstream corporate limits	*425
At upstream corporate limits	*458
Maps available for inspection with Mr. W. J. Gtretkowski, Chairman of the Township of Stroud, Monroe County, 1211 North 5th Street, Stroudsburg, Pennsylvania.	
TENNESSEE	
Lauderdale County (Unincorporated Areas) (FEMA Docket No. 7128)	
Cane Creek:	
At eastern corporate limits with Town of Ripley	*333
At Illinois Central Gulf Railroad	*335
Maps available for inspection at the Lauderdale County Executive's Office, County Courthouse, 100 Court Square, Ripley, Tennessee.	
WISCONSIN	
Clintonville (City), Waupaca County (FEMA Docket No. 7128)	
Honey Creek:	
Just upstream of South Main Street	*812
Just downstream of West 1st Street	*820
Pigeon River:	
Approximately 50 feet upstream of Klemp Road	*794
Just upstream of Hemlock Street	*808
Maps available for inspection at the City Hall, 50 Tenth Street, Clintonville, Wisconsin.	
Ephraim (Village), Door County (FEMA Docket No. 7128)	
Lake Michigan (Green Bay): Entire shoreline within the community	*585
Maps available for inspection at the Village of Ephraim Administration Office, 10005 Norway Road, Ephraim, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 28, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–19219 Filed 8–3–95; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF ENERGY

48 CFR Part 939

RIN 1991–AA81

Acquisition Regulation; Acquisition of Federal Information Processing Resources by Contracting

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues a final rule to amend the Department of Energy Acquisition Regulation (DEAR) to add regulations regarding the acquisition of Federal Information Processing Resources by contracting. This rule implements pertinent parts of the Federal Information Resources Management Regulation (FIRMR) to prescribe internal DOE policies relevant to the acquisition of Federal Information Processing (FIP) resources. The rule is necessary to establish policy regarding contracting authority for heads of contracting activities and the responsibilities of the contracting officer to comply with the delegated procurement authority provided by the General Services Administration. Further, the rule sets forth the Department's policy concerning contractor acquisition of FIP resources.

EFFECTIVE DATE: This final rule will be effective September 5, 1995.

FOR FURTHER INFORMATION CONTACT: P. Devers Weaver, Office of Policy (HR–51), Office of Procurement and Assistance Management, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, telephone 202–586–8250.

SUPPLEMENTARY INFORMATION:

I. Background.
A. Discussion
B. Section-by-Section Analysis
II. Public Comments.
III. Procedural Requirements.
A. Regulatory Review
B. Review Under Executive Order 12778
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. National Environmental Policy Act

I. Background

A. Discussion

The FIRMR, codified at 41 CFR Part 201, is the primary Governmentwide regulation for the acquisition, management, and use of FIP resources. The FIRMR is prepared, issued and maintained by the Administrator of the General Services Administration (GSA) under the authority of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486). Subpart 201.39 of the FIRMR prescribes the contracting policies and procedures to be followed by Federal agencies in acquiring FIP resources. The policies and procedures set out in FIRMR 201–39 are unique to the acquisition of FIP resources, and are to

be used in conjunction with the general Federal contracting policies and procedures of the Federal Acquisition Regulation (FAR).

Part 39 of the FAR requires agencies to follow the policies and procedures contained in the FAR when acquiring FIP resources, except in those areas where the FIRMR prescribes special policies, procedures, provisions, or clauses (see FAR 39.001). In addition, FAR 39.002(b) includes FIRMR 201–39 as an appendix to the FAR as an aid to contracting officials when acquisitions are conducted under GSA's exclusive procurement authority.

Section 201–3.301 of the FIRMR permits agencies to issue regulations to implement or supplement the FIRMR in their agency acquisition regulations, where such regulations pertain solely to the acquisition of FIP resources by contracting. These amendments amend the DEAR to add a new Part 939, Acquisition of Federal Information Processing Resources by Contracting and implement pertinent parts of the FIRMR to prescribe internal DOE policies and procedures relevant to the acquisition of FIP resources. The amendments now promulgated in this final rule were previously published in the **Federal Register** in a notice of proposed rulemaking on December 2, 1993 (58 FR 63556).

Many of the proposed amendments contained in the notice of proposed rulemaking concerned process or procedural matters relating to the acquisition of FIP resources. Since the publication of that notice of proposed rulemaking, efforts began throughout the Administration to simplify regulations and streamline the acquisition process. Accordingly, consistent with the intent of the National Performance Review and the Department of Energy's own contract reform initiative, the content of the proposed rule was reviewed subsequent to its publication on December 2, 1993 to determine whether the rule contained unnecessary or process-oriented requirements not suited for regulatory coverage. As a result of that review, it was determined that certain sections of the proposed rule addressed matters of a purely procedural or process nature, and could appropriately be removed from the regulatory coverage without any degradation to the effectiveness of the Department's FIP resources management and acquisition. The Department intends to include, where appropriate, this information in internal guidance documents. Following is a section-by-section summary of the final rule which also indicates which sections in the proposed rule have been deleted and which were retained.

B. Section-by-Section Analysis

The regulations at 48 CFR Part 9 are amended to add a new Part 939, Acquisition of Federal Information Processing Resources by Contracting. This new part consists of 54 subparts.

Section 939.001 is added to prescribe the scope of Part 939. However, language in the original notice of proposed rulemaking permitting contracting activities to establish local procedures that may be needed to further implement the requirements of Part 939 is deleted.

Subpart 939.1 addresses general matters concerning the FIRMR system. Section 939.101–3 of the notice of proposed rulemaking, which provided that the procurement request initiator make the initial assessment of FIRMR applicability to a particular acquisition, is removed from this final rule.

Section 939.101–5 explains the numbering system of Part 939.

Section 939.102, which explained the existing relationship of the FAR, the DEAR, and the FIRMR, is not included in this final rule.

Section 939.104–1 provides policy on the processing of deviations to the FIRMR within DOE. Language in the notice of proposed rulemaking that addressed the nature of the information to be included in a deviation request is not included in this final rule.

Section 939.106–3 addresses the contracting authority of individual Heads of the Contracting Activity and the responsibilities of the contracting officer.

The procedures for processing agency procurement requests originally set out in the notice of proposed rulemaking in Section 939.106–70 is not included in this final rule.

Subpart 939.2 provided definitions for words and terms used in Part 939. This section is being deleted from the final rule.

Section 939.501–70 of the notice of proposed rulemaking is not being included in the final rule. That section permitted the contracting officer to issue a synopsis for a solicitation in advance of receipt of procurement authority from GSA.

Section 939.602–270 of Subpart 939.6 establishes review and approval requirements for solicitations and contracts for, or using, outdated FIP equipment.

Section 939.670 permitted the issuance of draft Statements of Work/specifications or draft solicitations, prior to actual receipt of procurement authority to permit DOE to obtain information from the marketplace. This section is not included in the final rule.

In the notice of proposed rulemaking, Subpart 939.10 established the responsibilities of the procurement request initiator and the contracting officer regarding specifications for security and privacy requirements (Section 939.1001–70) and Federal standards (Section 939.1002–70) applicable to an acquisition for FIP resources. Section 939.1003–70 addressed the requirements of Executive Order 12845, ''Purchase of Energy Efficient Computers by Federal Agencies.'' The only coverage retained from the notice of proposed rulemaking is the language of Section 939.1003–70 authorizing the Head of the Contracting Activity to exempt requirements from the requirements of the Executive Order.

Section 939.1701–470 of Subpart 939.17, as set out in the notice of proposed rulemaking, provided guidance governing the period of performance of contracts for FIP services or support services. This section is removed in the final rule.

Section 939.4470 of Subpart 939.44 prescribes the policies governing contractor acquisitions of FIP resources. A new paragraph (c) has been added to clarify situations where a management and operating contractor may acquire FIP resources for use by another contractor of DOE.

II. Public Comments

DOE invited interested persons to participate in this rulemaking by submitting data, views or arguments with respect to the DEAR amendments set forth in the notice of proposed rulemaking. The public comment period closed on January 31, 1994, a period of 60 days. During that public comment period, no comments were received by DOE.

III. Procedural Requirements

A. Regulatory Review

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review, under that Executive Order, by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing

regulations. These requirements, set forth in sections 2(a) and 2(b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's final rule meets the requirements of sections 2(a) and 2(b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

E. Review Under Executive Order 12612

Executive Order 12612, entitled ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the Federal government and the states, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This rule will not affect states.

F. National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq*). Pursuant to Subpart D of 10 CFR Part 1021, National Environmental Policy Act Implementing Procedures, the Department of Energy has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment. This rule delegates contracting authority under categorical exclusion A6 of Subpart D.

List of Subjects in 48 CFR Part 939

Government Procurement.

Issued in Washington, D.C. on July 26, 1995.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set forth in the preamble, 48 CFR Chapter 9 is amended as set forth below:

1. A new Part 939, Acquisition of Federal Information Processing Resources by Contracting, consisting of Subparts 939.0 through 939.53, is added to read as follows:

PART 939—ACQUISITION OF FEDERAL INFORMATION PROCESSING RESOURCES BY CONTRACTING

Subpart 939.0—Scope of Part

Sec.
939.001 Scope.

Subpart 939.1 Federal Information Resources Management Regulation (FIRMR) System

939.101–5 Arrangement of part.
939.104–1 Deviations from the FIRMR.
939.106–3 Contracting authority and responsibilities.

Subparts 939.2 through 939.54 [Reserved]

Subpart 939.6 Competition Requirements

939.602–270 Outdated FIP equipment.

Subparts 939.7 through 939.9 [Reserved]

Subpart 939.10 Specifications, Standards, and Other Purchase Descriptions

939.1003–70 Purchase of Energy Efficient Computers (Energy Star)

Subparts 939.11 through 939.43 [Reserved]

Subpart 939.44 Subcontracting policies and procedures

939.4470 Contractor acquisitions of FIP resources.

Subparts 939.45 through 939.53 [Reserved]

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

Subpart 939.0 Scope of Part

939.001 Scope.

This part sets forth the policies that apply to the contracting for Federal Information Processing (FIP) resources by the Department of Energy (DOE).

Subpart 939.1 Federal Information Resources Management Regulation (FIRMR) System

939.101–5 Arrangement of part.

For consistency with the FIRMR and the FAR, part 939 is arranged in 54 subparts. Within each subpart, sections and subsections are numbered to correspond to like divisions of the FIRMR where the intent of the part 939 sections and subsections is to implement the FIRMR. Where the specific section or subsection is intended to supplement the FIRMR, or where specific FIRMR coverage does not exist, the section or subsection number is assigned a number of 70 or above.

939.104–1 Deviations from the FIRMR.

(a) Only the General Services Administration (GSA) can authorize class deviations and individual deviations from the FIRMR. Within DOE, contracting officers shall submit requests for deviations from the FIRMR to the Headquarters Office of Clearance and Support for approval and subsequent processing with GSA.

(b) *Approval Requirements.* The Head of the Contracting Activity (HCA), after coordination with local counsel, shall concur in requests for deviations prior to submission to the Office of Clearance and Support. The Procurement Executive shall approve all requests for deviations prior to submission of the request to GSA.

939.106–3 Contracting authority and responsibilities.

(a) In instances where a specific acquisition delegation of procurement authority is not required under (FIRMR) 41 CFR 201–20.305–3, Specific Acquisition Delegations, each HCA may acquire FIP resources up to 50 percent of the regulatory delegation thresholds prescribed in (FIRMR) 41 CFR 201–20.305–1, Regulatory Delegations,

unless different thresholds have been established either in the HCA's delegation of contracting authority, or in a specific agency delegation from GSA under (FIRMR) 41 CFR201–20.305–2, Specific Agency Delegations of Procurement Authority (DPA); or, in internal DOE guidance documents.

(b) The contracting officer is responsible for ensuring compliance with all terms, conditions, and limitations imposed on DOE under a specific acquisition Delegation of Procurement Authority (DPA).

(c) The contracting officer shall not award a contract, or a modification to an existing contract, when the value of the FIP resources portion of the award, including the value of any options, exceeds DOE's delegated FIP procurement authority redelegated to the HCA by the DSO. Where the anticipated award value of the FIP resources portion of the contract, or modification to the contract, exceeds DOE's delegated procurement authority, DOE shall obtain a revised delegation from GSA prior to award. Where the anticipated award value of the FIP resources portion of the contract, or modification to the contract, exceeds the HCA's redelegated procurement authority for that acquisition, the contracting officer shall have the redelegation revised, in accordance with internal DOE guidance documents, prior to award.

Subpart 939.2 through 939.5 [Reserved]

Subpart 939.6 Competition Requirements

939.602–270 Outdated FIP equipment.

Solicitations and contracts for, or using, outdated FIP equipment shall be submitted to the Office of Clearance and Support for review and approval. The Office of Information Management shall review these documents and make the decision whether to allow the acquisition or use of outdated FIP equipment.

Subparts 939.7 through 939.9 [Reserved]

Subpart 939.10 Specifications, Standards, and Other Purchase Descriptions

939.1003–70 Purchase of Energy Efficient Computers (Energy Star).

Executive Order 12845, ''Purchase of Energy Efficient Computers by Federal Agencies,'' requires agencies to acquire microcomputers, including personal computers, monitors, and printers, that meet the ''Energy Star'' requirements established by the Environmental Protection Agency for energy efficiency. Solicitations for microcomputers and peripheral equipment, issued after October 21, 1993, are required to include a requirement that equipment meet the ''Energy Star'' standard, unless an exemption has been provided by the Head of the Contracting Activity as authorized under section 1(a) of Executive Order 12845.

Subparts 939.11 through 939.43 [Reserved]

Subpart 939.44 Subcontracting Policies and Procedures

939.4470 Contractor acquisitions of FIP resources.

(a) *Management and operating (M&O) contracts.* Except as provided in paragraph (c) of this section, M&O contractors and their subcontractors shall not be used to acquire FIP resources unrelated to the mission of the M&O contract either for sole use by DOE employees or employees of other DOE contractors, or for use by other Federal agencies or their contractors.

(b) *Other than M&O contracts.* Where it has been determined that a contractor (other than an M&O contractor or its subcontractor) will acquire FIP resources either for sole use by DOE employees or for the furnishing of the FIP resources as government-furnished property under another contract, DOE will obtain any needed procurement authority from GSA prior to having the contractor acquire the FIP resources.

(c) *Consolidated contractor acquisitions.* When common FIP resource requirements in support of DOE programs have been identified and it is anticipated that the consolidation of such requirements will promote cost or other efficiencies, the Designated Senior Official for Information Management may authorize an M&O contractor to acquire FIP resources for use by the following:

(1) One or more other contractor(s) performing on-site at the same DOE-owned or -leased facility as the M&O contractor, or

(2) Other M&O contractors.

Subparts 939.45 through 939.53 [Reserved]

[FR Doc. 95–19010 Filed 8–3–95; 8:45 am]

BILLING CODE 6450–01–P

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC–100 (Sub–No. 6)]

Single State Insurance Registration

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; suspension of effectiveness.

SUMMARY: The Commission is suspending the effectiveness of its recent revisions to the receipt provisions of its Single State Insurance Registration regulations. The Commission is acting in response to a petition by state interests. The suspension will maintain the status quo while interested parties consider alternatives to the existing registration system.

EFFECTIVE DATES: Effective August 4, 1995, § 1023.5, as revised at 60 FR 30011, June 7, 1995, is suspended from August 4, 1995, until January 1, 1997. Section 1023.5 is reinstated effective August 4, 1995, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz, (202) 927–5299 or Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In a decision in *Single State Insurance Registration*, 9 I.C.C.2d 610 (1993), notice published at 58 FR 28932 on May 18, 1993, the Commission adopted final regulations that replaced a multi-state motor vehicle and operating authority registration system with a simplified, single-state, insurance-based registration system. The Commission acted pursuant to Congressional revisions to 49 U.S.C. 11506—Registration of Motor Carriers by a State. On judicial review, in *Nat'l Ass'n of Regulatory Util. Comm'rs* v. *ICC*, 41 F.3d 721 (D.C. Cir. 1994), the court found that the Commission had improperly balanced conflicting policy goals in adopting regulations giving motor carriers the authority to copy the registration receipts required by law to be kept in each motor vehicle. The court remanded the matter to the Commission for further consideration.

Upon consideration of the court's opinion and the comments filed by interested parties, the Commission adopted final rules revising the receipt provisions of the regulations in a decision served June 6, 1995, and notice published at 60 FR 30011 on June 7, 1995. Under the revised rules at 49 CFR 1023.5, states will issue official copies of registration receipts, and motor carriers will be required to maintain an official copy in each reported motor vehicle. Motor carrier copying of receipts will be prohibited. The new rules took effect July 7, 1995, in order to cover filings relating to the 1996 registration year.

By a petition filed July 11, 1995, the National Conference of State

Transportation Specialists (NCSTS) has requested that the Commission postpone the effectiveness of its revised rules for one year. The American Trucking Associations and the American Insurance Association have filed letters supporting the petition. NCSTS indicates that it is working with the motor carrier and insurance industries and the U.S. Department of Transportation to create a new insurance program.

In order to maintain the status quo while interested parties consider alternatives to the existing registration system, the Commission is granting the request. However, as the revised rules went into effect before the NCSTS filed its petition, the Commission is suspending, rather than postponing, the effectiveness of the revised rules and reinstating the rules that previously were in effect.

Regulatory Flexibility Certification

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. No new regulatory requirements are imposed, directly or indirectly, on such entities. We are continuing the effectiveness of rules that have been in place for 2 years and suspending the effectiveness of recently revised rules found not likely to have a significant economic impact. Thus, the economic impact on small entities, if any, is not likely to be significant within the meaning of the Regulatory Flexibility Act.

Environmental and Energy Considerations

We conclude that this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1023

Insurance, Motor carriers, Surety bonds.

Accordingly, 49 CFR chapter X is amended as set forth below.

PART 1023—STANDARDS FOR REGISTRATION WITH STATES

1. The authority citation for part 1023 continues to read as follows:

Authority: 49 U.S.C. 10321 and 11506; 5 U.S.C. 553.

2. Section 1023.5, which was revised at 60 FR 30011 on June 7, 1995, is suspended from August 4, 1995, until January 1, 1997.

3. Section 1023.5 is reinstated from August 4, 1995, until December 31, 1996, to read as follows:

§ 1023.5 Registration receipts.

(a) On compliance by a motor carrier with the annual or supplemental registration requirements of § 1023.4, the registration State must issue the carrier a receipt reflecting that the carrier has filed the required proof of insurance and paid fees in accordance with the requirements of that section.

(1) The receipt must contain only information identifying the carrier and specifying the States for which fees were paid. Supplemental receipts need contain only information relating to their underlying supplemental registrations.

(b) Receipts issued pursuant to a filing made during the annual registration period specified in § 1023.4(b)(2) must be issued within 30 days. All other receipts must be issued by the 30th day following the date of filing of a fully acceptable supplemental registration application. All receipts shall expire at midnight on the 31st day of December of the registration year for which they were issued.

(c) A carrier is permitted to operate its motor vehicles only in those participating States with respect to which it has paid appropriate fees.

(d) A motor carrier may make copies of receipts to the extent necessary to comply with the provisions of paragraph (e) of this section. However, it may not alter a receipt or a copy of a receipt.

(e) A motor carrier must maintain in each of its motor vehicles a copy(ies) of its receipt(s), indicating that it has filed the required proof of insurance and paid the required fees.

(f) The driver of a motor vehicle must present a copy(ies) of a receipt(s) for inspection by any authorized government personnel on reasonable demand.

(g) No registration State shall require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by a motor carrier.

Decided: July 31, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–19225 Filed 8–3–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 941265–4365; I.D. 072595B]

Pacific Coast Groundfish Fishery; Canary Rockfish and Lingcod Trip Limits

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS announces inseason adjustments to the trip limits for canary rockfish and establishes a small trip limit for trawl-caught lingcod smaller than 22 inches (56 cm) total length. These actions are intended to enable the 1995 harvest guideline for canary rockfish to be achieved, and to provide a reasonable tolerance for small lingcod.

DATES: Effective August 1, 1995, until the effective date of the 1996 annual specifications and management measures for the Pacific coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted until August 15, 1995.

ADDRESSES: Comments on these actions should be sent to Mr. William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0070; or Ms. Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Information relevant to these actions has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director).

FOR FURTHER INFORMATION CONTACT: William L. Robinson 206–526–6140; or Rodney R. McInnis 310–980–4040.

SUPPLEMENTARY INFORMATION: These actions are authorized by the Pacific Coast Groundfish Fishery Management Plan, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California.

On January 9, 1995, the 1995 Annual Specifications and Management Measures for Pacific Coast Groundfish Fishery were published in the **Federal Register** (60 FR 2331–2344). The management measures were amended

on May 5, 1995 (60 FR 22303), and July 19, 1995 (60 FR 37022). At its June 1995 meeting in Clackamas, OR, the Pacific Fishery Management Council (Council) considered the best available scientific information, comments from its advisory committees, and public testimony before recommending adjustments to the management measures for the groundfish fishery.

Canary Rockfish. Canary rockfish is one of more than 50 species in the *Sebastes* complex of rockfish. Based upon the best available information through May 31, 1995, NMFS projected the total annual catch of canary rockfish to be only 435 mt in 1995, about half the 850–mt harvest guideline for the Vancouver and Columbia subareas. The rate of landings would need to almost double to enable the harvest guideline to be reached by the end of the year. The Council heard testimony that canary rockfish were hard to catch in some areas, and that, therefore, the trip limit should not be increased in case there is a conservation problem. Other fishers reported that the current trip limit was too small, and the surplus catch was being discarded. The Council had no new information to conclude that the harvest guideline for this species was inappropriate. Noting that canary rockfish can have a patchy distribution and may be available to some gear types in some areas but not in others, the Council recommended increasing the monthly cumulative trip limit for canary rockfish from 6,000 lb (2,722 kg) to 9,000 lb (4,082 kg), so that the harvest guideline may be reached in 1995. (A cumulative monthly trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in a calendar month, without a limit on the number of landings or trips.) If landings fall short of the increased trip limit, further analysis will be conducted to determine if this is related to markets, fishing gear, or resource availability. NMFS concurs with the Council's recommendation to provide for full achievement of the harvest guideline, and to minimize trip limit induced discards. No change is made to the cumulative monthly trip limit for the *Sebastes* complex.

Lingcod. A 22–inch (56 cm) total length minimum size limit for lingcod was implemented coastwide for the first time in 1995 (60 FR 2343, January 9, 1995). At its June 1995 meeting, the Council heard testimony from trawl fishers that it was unreasonable to be found in violation if only a few fish in the catch were smaller than 22 inches. The Council agreed and recommended that a small trip limit of 100 pounds (45 kg) of trawl-caught sablefish smaller than 22 inches (56 cm) be allowed in each landing. This level is too small to encourage targeting on small juvenile fish, will provide for landing fish that otherwise would be discarded but probably would not survive, and will provide a reasonable level of tolerance to the size limit restriction. (This trip limit does not apply to hook-and-line caught lingcod, which are more likely to survive. Even at this low level, allowing retention of small lingcod with hook-and-line gear could encourage target fishing on them.)

NMFS Actions

NMFS announces the following changes to the 1995 fishery specifications and management measures for the limited entry fishery published at 60 FR 2331–2344, January 9, 1995, as modified. All other provisions remain in effect.

1. In paragraphs IV.C.(2)(a)(i), (ii), and (iii) the measures dealing with canary rockfish are revised as follows:

(i) *North of Cape Lookout*. The cumulative trip limit for the *Sebastes* complex taken and retained north of Cape Lookout is 35,000 lb (15,876 kg) per vessel per month. Within this cumulative trip limit for the *Sebastes* complex, no more than 18,000 lb (8,165 kg) may be yellowtail rockfish taken and retained north of Cape Lookout, and no more than 9,000 lb (4,082 kg) may be canary rockfish.

(ii) *Cape Lookout to Cape Mendocino*. The cumulative trip limit for the *Sebastes* complex taken and retained between Cape Lookout and Cape Mendocino is 50,000 lb (22,680 kg) per vessel per month. Within this cumulative trip limit for the *Sebastes* complex, no more than 40,000 lb (18,144 kg) may be yellowtail rockfish taken and retained between Cape Lookout and Cape Mendocino, and no more than 9,000 lb (4,082 kg) may be canary rockfish.

(iii) *South of Cape Mendocino*. The cumulative trip limit for the *Sebastes* complex taken and retained south of Cape Mendocino is 100,000 lb (45,359 kg) per vessel per month. Within this cumulative trip limit for the *Sebastes* complex, no more than 30,000 lb (13,608 kg) may be bocaccio taken and retained south of Cape Mendocino, and no more than 9,000 lb (4,082 kg) may be canary rockfish.

2. Paragraph IV.G.(1) on the lingcod limited entry fishery is revised as follows:

(1) *Limited entry fishery*. The cumulative trip limit for lingcod is 20,000 lb (9,072 kg) per vessel per month. Within this cumulative trip limit, no more than 100 lb (45 kg) of trawl-caught lingcod smaller than 22 inches (56 cm) total length may be taken and retained, possessed, or landed per vessel per fishing trip. Length measurement is explained at paragraph IV.A.(6).

3. Paragraphs IV.G.(1)(b)(i) and (ii) on lingcod weight conversion are revised as follows:

(i) *Headed and gutted*. The product recovery rate (PRR) for headed and gutted lingcod is 1.5. Therefore, the cumulative trip limit for headed and gutted lingcod is 13,333.3 lb (6,048 kg) processed weight per vessel per month, which corresponds to 20,000 lb (9,072 kg) round weight. Within this cumulative trip limit, no more than 67 lb (30 kg) of trawl-caught lingcod that is headed and gutted, and smaller than 18 inches (46 cm) (measured according to paragraph G.(1)(a)), may be taken and retained, possessed, or landed per vessel per fishing trip. (The State of Washington currently uses a PRR of 1.5.)

(ii) *Gutted, with the head on*. The PRR for lingcod that has only been eviscerated is 1.1. Therefore, the cumulative trip limit for gutted lingcod is 18,182 lb (8,246 kg) processed weight per vessel per month, which corresponds to 20,000 lb (9,072 kg) round weight. Within this cumulative trip limit, no more than 91 lb (41 kg) of trawl-caught lingcod smaller than 22 inches (56 cm) (measured according to paragraph IV.A.(6)) that is gutted (with the head on) may be taken and retained, possessed, or landed per vessel per fishing trip.

Classification

The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Director, Northwest Region, (see **ADDRESSES**) during business hours. At its August and October 1994 meetings, the Council reviewed the analysis for, and subsequently recommended, designating trip and size limits ''routine'' for canary rockfish, lingcod, and several other species and species groups. However the rulemaking procedures designating these actions routine have not been completed. (A routine designation means that a particular management measure such as trip and size limits may be changed inseason after a single Council meeting.) In its discussions, the Council anticipated the potential need for rapid adjustments to trip and size limits during the season to keep landings within the species' harvest guideline, to

minimize disruption of traditional fishing and marketing patterns, and to protect juvenile fish. The public had the opportunity to comment at those meetings. There was an opportunity for additional public comment and review of supporting documents (catch projections) at the June 1995 Council meeting, during which these issues were discussed further. Therefore, these actions may be taken under the abbreviated rulemaking procedures at section III.B.(3) of the appendix to 50 CFR part 663.

The increase to the canary rockfish cumulative trip limit and the 100–lb trip limit for small lingcod both relax restrictions that currently are in effect, and both were contemplated at three Council meetings during which the public had opportunity to comment. Public comments were considered, and are the basis for establishing the trip limit for small lingcod. NMFS therefore finds good cause under 5 U.S.C. 553(b)(B) to waive the requirements for publication of a general notice of proposed rulemaking. For the same reasons, according to 5 U.S.C. 553(d)(1), these actions are not subject to the 30-day delayed effectiveness requirement of the Administrative Procedure Act. This action is exempt from review under E.O. 12866.

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

Dated: July 28, 1995.

Donald J. Leedy,

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

[FR Doc. 95–19165 Filed 7–31–95; 3:07 pm]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950206041–5041–01; I.D. 073195B]

Groundfish of the Bering Sea and Aleutian Islands Area; Rock Sole/Flathead Sole/''Other Flatfish'' Fishery

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1995 bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/''other flatfish'' fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), August 1, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1995 bycatch allowance of Pacific halibut for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 675.21(b)(1)(iii)(B)(2), was established as 690 metric tons by the final 1995 harvest specifications of groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the 1995 bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/''other flatfish'' fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and is exempt from review under E.O. 12866.

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

Dated: July 31, 1995.

Richard W. Surdi,

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

[FR Doc. 95–19172 Filed 7–31–95; 4:34 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 150
Friday, August 4, 1995

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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2421 and 2422

Meaning of Terms as Used in This Subchapter; Representation Proceedings

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Federal Labor Relations Authority proposes to revise its regulations regarding the meaning of certain terms used in Subchapter C (Part 2421) and representation proceedings (Part 2422). These proposed revisions will streamline the regulations and make the rules more flexible in addressing the representational concerns of agencies, labor organizations, and individuals.

DATES: Comments must be received on or before September 18, 1995.

ADDRESSES: Mail or deliver written comments to the Office of Case Control, Federal Labor Relations Authority, 607 14th Street NW., Washington, DC. 20424–0001. Copies of all written comments will be available for inspection and photocopying between 8 a.m. and 5 p.m., Monday through Friday, in Suite 415 at the above address.

FOR FURTHER INFORMATION CONTACT: James H. Adams, Office of Case Control, (202) 482–6540.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority established a Task Force to study and evaluate Part 2422 of its regulations—the regulations concerning representation proceedings. To this end, the Task Force conducted focus groups to solicit and consider customers' views prior to proposing these revisions. An additional focus group meeting has been scheduled for August 29, 1995 at the FLRA's Headquarters, 607 14th St. N.W., Washington, D.C. 20424, 2nd Floor Agenda Room, at 10:00 a.m. Persons interested in attending this meeting on this proposed rulemaking should call or write the point of contact listed in the preceding section to confirm attendance.

Sectional analyses of the proposed amendments to Part 2421—Meaning of Terms As Used in This Subchapter and the proposed revisions of Part 2422—Representation Proceedings are as follows:

Part 2421

Section 2421.11—The definition of ''party'' is clarified to incorporate the statutory definition of the term ''person'' (an individual, labor organization, activity or agency).

Section 2421.18—The term ''petitioner'' is not defined in the current regulations. This section now defines ''petitioner.''

Section 2421.19—The term ''eligibility period'' is not defined in the current regulations. This section now defines ''eligibility period'' in connection with elections.

Section 2421.20—The term ''election agreement'' is not defined in the current regulations. This section now defines ''election agreement.''

Section 2421.21—A new term, ''affected by issues raised,'' used throughout the proposed regulations, is defined in this section. The term has been added to ensure that all appropriate entities are afforded the opportunity to participate in a proceeding.

Section 2421.22—The term ''determinative challenged ballots'' is not defined in the current regulations. This section now defines ''determinative challenged ballots.''

Part 2422

Section 2422.1—In a significant proposed change, this section consolidates in one petition the seven separate petitions (RO, DR, RA, CU, AC, UC, DA) provided for in Part 2422 of the current regulations. This single petition permits resolution of all issues that may be raised concerning the representation of employees by labor organizations covered by the Statute and obtains the same type of results provided for by using the current petitions. All of the current petitions are incorporated into this section.

Combining the current seven petitions into a single petition simplifies the current multiple filing requirements. A single petition avoids the procedural issues that arise when a petitioner ''checks the wrong box'' and files the wrong petition. A single petition also provides a more flexible approach to complicated representation matters.

Many of the current rights and obligations that flow to parties while a representation petition is being processed are dependent upon the type of petition that has been filed. The proposed regulations contain a substantive rule in section 2422.34 to guide the parties' conduct while the new petition is processed.

Section 2422.2—This section provides that, with one exception, the new petition may be filed by any individual, labor organization, activity or agency, or combination of these. The one exception, consistent with section 7111(b) of the Statute, is that a petition requesting an election to either elect or decertify a labor organization and requiring a showing of interest may be filed only by an individual or a labor organization. A petition may be filed as to matters relating to majority status (if the activity or agency has a good faith doubt, based on objective considerations, that a current recognized or certified labor organization represents a majority of the employees in an existing unit) or other matters relating to representation (e.g., questions concerning whether a current unit continues to be appropriate because of a substantial change in the character and scope of the unit). Current pre-filing requirements applicable to UC petitions are eliminated.

Section 2422.3—The new petition is described in this section. This section also contains, in separate subsections, requirements for: compliance with section 7111(e) of the Statute; submission of a showing of interest to support a request for an election; and certification for a dues allotment.

The parties will be required to name in the petition the activity(ies), agency(ies), labor organizations and bargaining units affected by issues raised in the petition, as well as to state clearly and concisely the issues raised in the petition and the results the petitioner seeks. This section facilitates participation by all labor organizations, agencies and activities that have an interest in the issues raised in the petition.

Section 2422.4—This section consolidates service requirements and applies to all documents unless the regulations specifically provide otherwise. The section includes 2 options concerning the service of supporting documentation. Under Option 1, supporting documentation, with the exception of showings of interest, would be served on all affected parties. Under Option 2, supporting documentation, with the exception of showings of interest, challenges to showings of interest, other challenges, and objections, would be served.

Section 2422.5—This section identifies the method for filing the new petition, including where to file, the number of copies to file, and the date of filing. The petitioner would have to file an original and 2 copies of the petition, rather than the current original and 4 copies.

Section 2422.6—This is a new section that ensures service of the petition on all entities that may have an interest in a proceeding. It provides that a Regional Director will notify interested parties identified in a petition and any other interested parties known to the Regional Director. This section does not alter the petitioner's service requirements contained in section 2422.4.

Section 2422.7—Under this section, as under current regulation, a Regional Director will direct an activity or agency to post a notice for 10 days advising affected employees and interested parties about a petition. However, as discussed in more detail in connection with section 2422.8, the posting of the notice no longer will establish the time period for filing intervention requests, challenges to the showing of interest, or other challenges to the proceeding.

Section 2422.8—This section would significantly change the current requirements for requesting intervention and filing cross-petitions. Timeliness for filing requests for intervention and cross-petitions is no longer subject to the 10-day posting period. Rather, the requests and filings are timely if filed either: (1) prior to the close of a hearing; or (2) if no hearing is held, prior to the approval of an election agreement or issuance of a Decision and Order. The section expands the criteria to qualify as an intervenor to allow all parties who are affected by issues raised in the petition to participate in a proceeding. Similarly, activities and agencies may qualify as intervenors if they employ any employees affected by issues raised in a petition.

Section 2422.9—This section defines the ''adequacy of a showing of interest.'' This term is not defined in the current regulations. The section clarifies that Regional Director decisions holding that a showing of interest is adequate are final and binding.

Section 2422.10—This section clarifies that Regional Director decisions holding that a showing of interest is valid are final and binding decisions. Time limits for filing challenges to the validity of a showing of interest are no longer tied to the 10-day posting period. Rather, challenges are timely if filed: (1) prior to the close of a hearing; or (2) if no hearing is held, prior to the approval of an election agreement or issuance of a Decision and Order.

Section 2422.11—Time limits for filing challenges to the status of a labor organization are no longer tied to the 10-day posting period. Rather, status challenges are timely if filed: (1) prior to the close of a hearing; or (2) if no hearing is held, prior to the approval of an election agreement or issuance of a Decision and Order. The section also clearly states the current requirement that the only basis on which such a status challenge may be made is alleged non-compliance with 5 U.S.C. 7103(a)(4).

Section 2422.12—This section lists the timeliness requirements for filing a petition seeking an election. There are no substantive changes in the election bar in subsection (a), the certification bar in subsection (b) or the bar rules in subsections (d) through (f). A new subsection (c) has been added to track case law concerning the filing of a petition during the time for agency head review under 5 U.S.C. 7114(c). *See Kansas Army National Guard, Topeka, Kansas,* 47 FLRA 937 (1993); *Fort Bragg Association of Teachers and U.S. Department of the Army, Fort Bragg Schools, Fort Bragg, North Carolina,* 44 FLRA 852 (1992); *U.S. Department of Defense, Defense Contract Audit Agency, Central Region and American Federation of Government Employees, Local 3529,* 37 FLRA 1218 (1990). Also, a new subsection (h) has been added to track case law concerning the requirements that a contract must meet to serve as a bar. *See U.S. Department of the Interior, Redwood National Park, Crescent City, California,* 48 FLRA 666 (1993); *U.S. Department of Health and Human Services, Social Security Administration,* 44 FLRA 230 (1992); *Florida (Air) National Guard, St. Augustine, Florida,* 43 FLRA 1475 (1992); *U.S. Department of Housing and Urban Development, Newark Office, Newark, New Jersey,* 37 FLRA 1122 (1990); *Department of the Army, U.S. Army Concord District Recruiting Command, Concord, New Hampshire,* 14 FLRA 73 (1984). These changes place in one section all requirements concerning a contract as a bar to a petition seeking an election.

Section 2422.13—This is a new section highlighting the importance of discussions among the parties to narrow and resolve issues raised in a representation matter and the role of personnel in the Regional Offices in assisting parties in these discussions, both before and after the filing of a petition. Subsection (a) encourages all parties to meet prior to the filing of a petition to discuss and narrow the issues. If requested by all parties, Regional Office personnel also will participate in these meetings. Subsection (b) allows a Regional Director to require all affected parties to meet to attempt to narrow and resolve issues after a petition has been filed.

Section 2422.14—This section states the consequences of a withdrawal or dismissal of a petition seeking an election less than 60 days before the expiration of a contract covering the employees affected or anytime after the expiration of the agreement. The section now applies to all contracts, not just those having a term of 3 years or less. This section makes no substantive changes in the current regulations concerning consequences of withdrawal or dismissal of a petition seeking an election less than 60 days before the expiration of a collective bargaining agreement (subsection (a)); or such consequences when a petition seeking an election is withdrawn by the petitioner less than 3 days prior to a hearing, or after a Regional Director has approved an election agreement or directed an election (subsection (b)). However, in a departure from current regulation, a new subsection (c) bars an incumbent from seeking an election in a unit for which it has disclaimed interest within the previous 6 months.

Section 2422.15—This section requires all parties to furnish information concerning issues raised in a petition and to cooperate fully in an investigation, subject to dismissal of a petition or a request to intervene.

Section 2422.16—This section discusses election agreements and elections directed by a Regional Director. The section does not change the existing requirement that parties will be provided an opportunity for a hearing on other than procedural matters before a Regional Director directs an election.

However, the section reflects a significant change: after a hearing, if there are no questions regarding unit appropriateness, a Regional Director may issue a Direction of Election without issuing a Decision and Order. Thus, elections may be conducted

without delay when the parties agree on, and a Regional Director approves, an appropriate unit even though the parties are unable to agree on such matters as the eligibility of employees that do not affect the appropriateness of the unit. Any party would be permitted to file challenges to the eligibility of any person voting in the election and/or file objections to the election.

Section 2422.17—This section, pertaining to a notice of hearing, provides that parties must participate in a prehearing conference scheduled by the Hearing Officer and must be prepared to discuss, narrow and resolve the issues raised by the petition set forth in the notice of hearing. This section, in conjunction with section 2422.13, emphasizes the resolution of issues at the earliest stage possible during a proceeding.

Sections 2422.18–2422.20—These three sections set forth hearing procedures and rights of the parties at a hearing.

Section 2422.21—This section offers two options. Option 1 follows current regulations. Option 2 would authorize a Hearing Officer to make recommendations on the record on any issue. Other options exist, including limiting the type of recommendations that may be made to certain matters, such as credibility and eligibility issues. Following receipt of comments, consideration will be given to whether, if current regulations are changed, the authority of Hearing Officers to make recommendations should be more limited than that proposed in Option 2.

Section 2422.22—This section addresses objections to the conduct of the hearing.

Section 2422.23—This section clarifies and simplifies the procedure by which elections are conducted or supervised by a Regional Director. This section continues current practices with two exceptions: subsection (e) provides that when the parties agree, the Regional Director may allow an intervenor to remove its name from the ballot even if the request to withdraw is received after the approval of an election agreement or the direction of an election; subsection (f) adds that if an incumbent withdraws from a ballot to decertify the incumbent, any intervenor will be given time, as established by a Regional Director, to proffer a thirty percent (30%) showing of interest in the unit. Subsection (g) describes whether an election will be held when the petitioner requests withdrawal.

Sections 2422.24–2422.29—These six sections discuss challenged ballots, the tally of ballots, objections to the election, the processing of determinative challenged ballots and objections to an election, and runoff and inconclusive elections. These sections make no substantive changes in current practices in these areas, except in one instance: subsection (a) of section 2422.26 provides that objections to an election must be filed and received by a Regional Director within 5 days after the tally of ballots has been furnished to the parties. Current regulations measure the timeliness of objections from the date of service of the objections, which encompasses the date mailed. This change allows certifications following elections to be issued more expeditiously.

Section 2422.30—This section clarifies in subsection (b), consistent with section 2422.16(c), that a Regional Director will issue a notice of hearing when there is either a material issue of fact or reasonable cause to believe a question exists regarding unit appropriateness. The section also clarifies in subsection (e) what constitutes ''the record'' in a representation proceeding. The section makes no substantive changes in the current practices in these areas. The section states that a Regional Director will resolve matters in dispute and issue a Decision and Order when appropriate but does not list all potential actions a Regional Director may take.

Section 2422.31—Subsection (c) includes two options for when the Authority will grant an application for review of a Regional Director's decision. Option 1 retains the current grounds for review with minor editorial changes. Option 2 specifies that, in addition to satisfying one or more of those grounds, a party seeking review must assert and establish that the Authority's decision will have a substantial impact on labor-management relations law unless the Authority determines, in its discretion, that extraordinary circumstances exist to grant review. Following receipt of comments, the Authority will adopt one of the options or a combination thereof.

Section 2422.32—This is a new section that states when certifications and revocations may be issued. The section allows a Regional Director to issue, as appropriate, revocations of recognitions or certifications, when an exclusive representative no longer represents an appropriate unit, such as when a disclaimer is filed by an incumbent or when there has been a substantial change in the character and scope of a unit. The issuance of revocations will enable parties and the Authority to better track the history of a bargaining unit and provide a definitive declaration of the representational status of the unit. The section also clarifies that a revocation of a certification has no impact on any rights and obligations that may exist under the Statute.

Section 2422.33—This section clarifies that relief which was or could have been obtained in a representation proceeding may not be obtained in an unfair labor practice proceeding.

Section 2422.34—This new substantive rule sets out the obligations and rights of parties during the pendency of a representation petition.

Subsection (a) provides that during the pendency of any representation petition, parties must maintain existing recognitions and adhere to the terms and conditions of existing collective bargaining agreements. These aspects of the section reflect existing case law requirements. *E.g., U.S. Department of the Navy, Naval Air Engineering Center, Lakehurst, New Jersey,* 3 FLRA 568 (1980); *Department of Energy,* 2 FLRA 838 (1980). Subsection (a) also provides that, during such pendency, parties must fulfill all other representational and bargaining responsibilities. In part, this aspect of subsection (a) reflects existing requirements. *See, e.g., Department of the Interior, Bureau of Reclamation, Yuma Projects Office, Yuma Arizona,* 4 FLRC 486, 497 (1976) (during pendency of a representation petition, if an agency ''must make changes in otherwise negotiable personnel policies and practices and matters affecting working conditions, then the agency must notify the incumbent union or unions of those proposed changes and, upon request, negotiate on those matters * * *''). However, subsection (a) would alter existing law by permitting changes after representational and collective bargaining responsibilities under the Statute are satisfied. Additionally, subsection (a) departs from existing law insofar as it would require parties to, among other things, bargain over and execute a term agreement during the pendency of certain petitions. *E.g., Immigration and Naturalization Service,* 16 FLRA 80, 87 (1984) (agency did not violate the Statute by refusing to bargain over changes in negotiated promotion plan during pendency of a question concerning representation because such bargaining ''would necessarily have led to changes in conditions of employment * * * which the [r]espondent was required to maintain to the maximum extent possible''). Subsection (b) permits parties to take actions consistent with their position regarding the unit status of individual employees, subject to challenge and review. For example, an agency may refuse to process, under a negotiated grievance procedure, a

grievance filed by an employee who it claims is outside a recognized bargaining unit. This refusal to process is subject to challenge by the exclusive representative of the relevant unit. Subsection (b) is consistent with existing case law requirements, which recognize that, in situations such as these, a party acts at its peril in taking actions based on its position regarding an employee's unit status.

List of Subjects in 5 CFR Parts 2421 and 2422

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set forth in the preamble, the Federal Labor Relations Authority proposes to amend Part 2421 and revise Part 2422 of its regulations as follows:

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

1. The authority citation for Part 2421 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. Section 2421.11 is revised to read as follows:

§ 2421.11 Party.

Party means:

(a) Any labor organization, employing agency or activity or individual

(1) Filing a charge, petition, or request;

(2) Named as

(i) A charged party in a charge,

(ii) A respondent in a complaint, or

(iii) An employing agency or activity or an incumbent labor organization in a petition;

(3) Whose intervention in a proceeding has been permitted or directed by the Authority; or

(4) Who participated as a party

(i) In a matter that was decided by an agency head under 5 U.S.C. 7117, or

(ii) In a matter where the award of an arbitrator was issued; and

(b) The General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

3. Sections 2421.18 through 2421.22 are added to read as follows:

§ 2421.18 Petitioner.

Petitioner means the party filing a petition under Part 2422 of this Subchapter.

§ 2421.19 Eligibility period.

Eligibility period means the payroll period during which an employee must be in an employment status with an activity or agency in order to be eligible to vote in a representation election under Part 2422 of this Subchapter.

§ 2421.20 Election agreement.

Election agreement means an agreement under Part 2422 of this Subchapter signed by all the parties, and approved by the Regional Director, concerning the details and procedures of a representation election in an appropriate unit.

§ 2421.21 Affected by issues raised.

The phrase *affected by issues raised,* as used in Part 2422, should be construed broadly to include parties and other labor organizations, agencies or activities, or bargaining units that have a connection to questions presented in a proceeding.

§ 2421.22 Determinative challenged ballots.

Determinative challenged ballots are challenges that are unresolved prior to the tally and sufficient in number after the tally to affect the results of the election.

4. Part 2422 is revised to read as follows:

PART 2422—REPRESENTATION PROCEEDINGS

Sec.

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2422.32 Certifications and Revocations.
2422.33 Relief obtainable under Part 2423.
2422.34 Rights and obligations during the pendency of representation proceedings.

Authority: 5 U.S.C. 7134.

§ 2422.1 Purposes of a petition.

A petition may be filed for the following purposes:

(a) *Elections or Eligibility for dues allotment.* To request:

(1) (i) An election to determine if employees in an appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, and/or

(ii) A determination of eligibility for dues allotment in an appropriate unit without an exclusive representative; or

(2) an election to determine if employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative. Petitions under this subsection must be accompanied by an appropriate showing of interest.

(b) *Clarification or Amendment.* To clarify, and/or amend:

(1) A recognition or certification then in effect; and/or

(2) Any other matter relating to representation.

(c) *Consolidation.* To consolidate two or more units, with or without an election, in an agency and for which a labor organization is the exclusive representative.

§ 2422.2 Who may file a petition.

A representation petition may be filed by: an individual; a labor organization; two or more labor organizations acting as a joint-petitioner; an individual acting on behalf of any employee(s); an activity or an agency; or a combination of the above, Provided, that petitions requiring by a showing of interest may be filed only by an individual or a labor organization.

§ 2422.3 Contents of a petition.

(a) *What to file.* A petition must be filed on a form prescribed by the Authority and contain the following information:

(1) The name and mailing address for each activity or agency affected by issues raised in the petition, including street number, city, state and zip code.

(2) The name, mailing address and work telephone number of the contact person for each activity or agency affected by issues raised in the petition.

(3) The name and mailing address for each labor organization affected by issues raised in the petition, including street number, city, state and zip code. If a labor organization is affiliated with

a national organization, the local designation and the national affiliation should both be included. If a labor organization is an exclusive representative of any of the employees affected by issues raised in the petition, the date of the recognition or certification and the date any collective bargaining agreement covering the unit will expire or when the most recent agreement did expire should be included, if known.

(4) The name, mailing address and work telephone number of the contact person for each labor organization affected by issues raised in the petition.

(5) The name and mailing address for the petitioner, including street number, city, state and zip code. If a labor organization petitioner is affiliated with a national organization, the local designation and the national affiliation should both be included.

(6) A description of the unit(s) affected by issues raised in the petition. The description should generally indicate the geographic locations and the classifications of the employees included (or sought to be included) in, and excluded (or sought to be excluded) from, the unit.

(7) The approximate number of employees in the unit(s) affected by issues raised in the petition.

(8) A clear and concise statement of the issues raised by the petition and the results the petitioner seeks.

(9) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that the contents of the petition are true and correct to the best of the person's knowledge and belief.

(10) The signature, title, mailing address and telephone number of the person filing the petition.

(b) *Compliance with 5 U.S.C. 7111(e).* A labor organization/petitioner complies with 5 U.S.C. 7111(e) by submitting to the agency or activity and to the Department of Labor a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives. By signing the petition form, the labor organization/petitioner certifies that it has submitted these documents to the activity or agency and to the Department of Labor.

(c) *Showing of interest supporting a representation petition.* When filing a petition requiring a showing of interest, the petitioner must:

(1) So indicate on the petition form;

(2) Submit with the petition a showing of interest of not less than thirty percent (30%) of the employees in the unit involved in the petition; and

(3) Include an alphabetical list of the names constituting the showing of interest.

(d) *Petition seeking dues allotment.* When there is no exclusive representative, a petition seeking certification for dues allotment shall be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit claimed to be appropriate. An alphabetical list of names constituting the showing of membership must be submitted.

§ 2422.4 Service requirements.

Option 1

Unless otherwise specifically provided, every petition, motion, brief, request, challenge, written objection, or application for review shall be served on all parties affected by issues raised in the filing. The service shall include all documentation in support thereof, with the exception of a showing of interest. The filer must submit a written statement of service to the Regional Director.

Option 2

Unless otherwise specifically provided, every petition, motion, brief, request, challenge, written objection, or application for review shall be served on all parties affected by issues raised in the filing. The service shall include all documentation in support thereof, with the exception of a showing of interest, challenges to a showing of interest, and documentation supporting challenges and objections. The filer must submit a written statement of service to the Regional Director.

§ 2422.5 Filing petitions.

(a) *Where to file.* Petitions must be filed with the Regional Director for the region in which the unit or employee(s) affected by issues raised in the petition are located. If the unit(s) or employees are located in two or more regions of the Authority, the petitions must be filed with the Regional Director for the region in which the headquarters of the agency or activity is located.

(b) *Number of copies.* An original and two (2) copies of the petition and the accompanying material must be filed with the Regional Director.

(c) *Date of filing.* A petition is filed when it is received by the appropriate Regional Director.

§ 2422.6 Notification of filing.

(a) *Notification to interested parties.* After a petition is filed, the Regional Director will notify any labor organization, agency or activity the parties have indicated as being affected by issues raised by the petition, or any other interested party known to the Regional Director, that a petition has been filed with the Regional Director.

(b) *Contents of the notification.* The notification will inform the labor organization, agency or activity of:

(1) The name of the petitioner;

(2) The description of the unit or employees affected by issues raised in the petition; and,

(3) A statement that all affected parties should advise the Regional Director in writing of their interest in the issues raised in the petition.

§ 2422.7 Posting notice of filing of a petition.

(a) *Posting notice of petition.* When appropriate, the Regional Director, after the filing of a representation petition, will direct the agency or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or in a manner by which notices are normally distributed.

(b) *Contents of notice.* The notice shall advise affected employees and interested parties about the petition.

(c) *Duration of notice.* The notice should be conspicuously posted for a period of ten (10) days and not be altered, defaced, or covered by other material.

§ 2422.8 Intervention and cross-petitions.

(a) *Cross-petitions.* A cross-petition is a petition seeking an election in a unit which includes any employees in a unit covered by a pending representation petition. Cross-petitions must be filed in accordance with this subpart.

(b) *Intervention requests and cross-petitions.* A request to intervene and a cross-petition, accompanied by any necessary showing of interest, must be submitted in writing and/or filed and submitted to the Regional Director prior to a hearing, or to the Hearing Officer after the hearing opens but before it closes. If no hearing is held, a request to intervene and a cross-petition must be filed prior to action being taken pursuant to § 2422.30.

(c) *Labor organization intervention requests.* Except for incumbent intervenors, a labor organization seeking to intervene shall submit a statement that it has complied with 5 U.S.C. 7111(e) and one of the following:

(1) A showing of interest of ten percent (10%) or more of the employees in the unit covered by a petition seeking an election, with an alphabetical list of the names of the employees constituting the showing of interest; or

(2) A current or recently expired collective bargaining agreement

covering any of the employees in the unit affected by issues raised in the petition; or

(3) Evidence that it is or was, prior to a reorganization, the recognized or certified exclusive representative of any of the employees affected by issues raised in the petition.

(d) *Incumbent intervention.* An incumbent exclusive representative, without regard to the requirements of paragraph (c) of this section, will be considered an intervenor in any representation proceeding raising issues that affect employees the incumbent represents, unless it serves the Regional Director with a written disclaimer of any representation interest in the claimed unit.

(e) *Agency or activity intervention.* An agency or activity seeking to intervene in any representation proceeding must submit evidence that one or more employees of the agency or activity may be affected by issues raised in the petition.

§ 2422.9 Adequacy of showing of interest.

(a) *Adequacy.* Adequacy of a showing of interest refers to the percentage of employees in the unit involved as required by §§ 2422.3 (c) and (d) and 2422.8(c)(1).

(b) *Regional Director investigation and Decision and Order.* The Regional Director will conduct such investigation as deemed appropriate. A Regional Director's determination that the showing of interest is adequate is final and binding and not subject to collateral attack at a representation hearing or on appeal to the Authority. If the Regional Director determines that a showing of interest is inadequate, the Regional Director will issue a Decision and Order dismissing the petition, or denying a request for intervention.

§ 2422.10 Validity of showing of interest.

(a) *Validity.* Validity questions are raised by challenges to a showing of interest on grounds other than adequacy.

(b) *Validity challenge.* The Regional Director or any party may challenge the validity of a showing of interest.

(c) *When and where validity challenges may be filed.* Party challenges to the validity of a showing of interest must be in writing and submitted to the Regional Director prior to a hearing, or to the Hearing Officer after the hearing opens but before it closes. If no hearing is held, challenges to the validity of a showing of interest must be filed prior to action being taken pursuant to § 2422.30.

(d) *Contents of validity challenges.* Challenges to the validity of a showing of interest must be supported with evidence.

(e) *Regional Director investigation and Decision and Order.* The Regional Director will conduct such investigation as deemed appropriate. The Regional Director's determination that a showing of interest is valid is final and binding and is not subject to collateral attack or appeal to the Authority. If the Regional Director finds that the showing of interest is not valid, the Regional Director will issue a Decision and Order dismissing the petition or denying the request to intervene.

§ 2422.11 Challenge to the status of a labor organization.

(a) *Basis of challenge to labor organization status.* The only basis on which a challenge to the status of a labor organization may be made is compliance with 5 U.S.C. 7103(a)(4).

(b) *Format and time for filing a challenge.* Any party filing a challenge to the status of a labor organization involved in the processing of a petition must do so in writing to the Regional Director prior to a hearing, or to the Hearing Officer after the hearing opens but before it closes. If no hearing is held, challenges must be filed prior to action being taken pursuant to § 2422.30.

§ 2422.12 Timeliness of petitions seeking an election.

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking an election will not be considered timely if filed within twelve (12) months of a valid election involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election will not be considered timely if filed within twelve (12) months after the certification of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement is signed and dated covering the claimed unit, paragraphs (c), (d), and (e) of this section apply.

(c) *Bar during 5 U.S.C. 7114(c) agency head review.* A petition seeking an election will not be considered timely if filed during the period of agency head review under 5 U.S.C. 7114(c). This bar expires upon either the passage of thirty (30) days absent agency head action, or upon the date of any timely agency head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement has been signed and dated covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the agreement.

(e) *Contract bar where the contract is for three (3) years or more.* Where a collective bargaining agreement has been signed and dated covering the claimed unit and has a term of three (3) years or more from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) days and not less than sixty (60) days prior to the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

(f) *Unusual circumstances.* A petition seeking an election or a determination relating to representation matters may be filed at any time when unusual circumstances exist that substantially affect the unit or majority representation.

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended and signed more than sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c) and those that automatically renew without further action by the parties, do not constitute a bar to a petition seeking an election under this section unless a clear and unambiguous effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

§ 2422.13 Resolution of issues raised by a petition.

(a) *Meetings prior to filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet prior to the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties a representative of the appropriate Regional Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* After a petition is filed, the Regional Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

§ 2422.14 Effect of withdrawal/dismissal.

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* When a petition seeking an election that has been timely filed is withdrawn by the petitioner or dismissed by the Regional Director less than sixty (60) days prior to the expiration of an existing agreement between the incumbent exclusive representative and the activity or any time after the expiration of the agreement, another petition seeking an election will not be considered timely if filed within a ninety (90) day period from either:

(1) The date the withdrawal is approved; or

(2) The date the petition is dismissed by the Regional Director when no application for review is filed with the Authority; or

(3) The date the Authority rules on an application for review. Other pending petitions that have been timely filed under this Part will continue to be processed.

(b) *Withdrawal less than three (3) days prior to a hearing or after approval of an election agreement.* A petitioner who submits a withdrawal request for a petition seeking an election that is received by the Regional Director will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date of the approval of the withdrawal by the Regional Director if such request is filed:

(1) Within three (3) days before a hearing is scheduled to be held; or

(2) After the approval by the Regional Director of an election agreement or direction of an election by the Regional Director under § 2422.16.

(c) *Withdrawal of incumbent prior to an election.* When an election is not held because the incumbent disclaims any representation interest in a unit, a petition by the incumbent seeking an election involving the same unit or a subdivision of the same unit will not be considered timely if filed within six (6) months of cancellation of the election.

§ 2422.15 Duty to furnish information.

(a) *Relevant information.* After a petition is filed, all parties must, upon request of the Regional Director, furnish the Regional Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After a petition seeking an election is filed, the Regional Director may direct the agency or activity to furnish the Regional Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* The failure to submit supporting information or to cooperate fully in the investigation of the petition or request to intervene may result in dismissal.

§ 2422.16 Election agreements or directed elections.

(a) *Election agreements.* Parties are encouraged to enter into election agreements.

(b) *Regional Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, dates, hours, or locations of the election, the Regional Director will decide election procedures and issue a Direction of an Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for a hearing.* Before directing an election, the Regional Director shall provide affected parties an opportunity for a hearing on other than procedural matters and, thereafter may:

(1) Issue a Decision and Order; or

(2) If there are no questions regarding the unit appropriateness, issue a Direction of Election without a Decision and Order.

(d) *Challenges or objections to a directed election.* A Direction of Election issued under this section will be issued without prejudice to the right of a party to file a challenge to the eligibility of any person participating in the election and/or objections to the election.

§ 2422.17 Notice of hearing.

(a) *Purpose of notice of a hearing.* The Regional Director may issue a notice of hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will be served on all interested parties and will advise affected employees and interested parties about the hearing.

(c) *Prehearing conference.* The Hearing Officer will schedule a prehearing conference, either by meeting or teleconference. All parties must participate in a prehearing conference and be prepared to fully discuss, narrow and resolve the issues set forth in the notice of hearing.

(d) *No appeal of hearing determination.* A Regional Director's determination to issue a notice of hearing is not appealable to the Authority.

§ 2422.18 Hearing procedures.

(a) *Purpose of a hearing.* Representation hearings are considered investigatory and not adversarial. The purpose of the hearing is to develop a full and complete record of relevant and material facts.

(b) *Conduct of hearing.* Hearings will be open to the public unless otherwise ordered by the Hearing Officer. There is no burden of proof, with the exception of proceedings on objections to elections as provided for in § 2422.27(b). Formal rules of evidence do not apply.

(c) *Hearing officer.* Hearings will be conducted by a Hearing Officer appointed by the Regional Director. Another Hearing Officer may be substituted for the presiding Hearing Officer at any time.

(d) *Transcript.* An official reporter will make the official transcript of the hearing. Copies of the official transcript may be examined in the appropriate Regional Office during normal working hours. Requests by parties to purchase copies of the official transcript should be made to the official hearing reporter.

§ 2422.19 Motions.

(a) *Purpose of a motion.* Subsequent to the issuance of a Notice of Hearing in a representation proceeding, a party seeking a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds therefor. Challenges and other filings referenced in other sections of this subpart may, in the discretion of the Regional Director or Hearing Officer, be treated as a motion.

(b) *Prehearing motions.* Prehearing motions must be filed in writing with the Regional Director. Any response must be filed with the Regional Director within five (5) days after service of the motion. The Regional Director may rule on the motion or refer the motion to the Hearing Officer.

(c) *Motions made at the hearing.* (1) During the hearing, motions will be made to the Hearing Officer and may be oral on the record, unless otherwise required in this subpart to be in writing. Responses may be oral on the record or in writing, but, absent permission of the Hearing Officer, must be provided before the hearing closes. When appropriate, the Hearing Officer will rule on motions made at the hearing or referred to the Hearing Officer by the Regional Director.

(2) When a motion to intervene pursuant to § 2422.8 is made at the hearing, the Hearing Officer will either grant the motion, deny the motion, or conditionally allow participation in the hearing pending the Regional Director's ruling on the motion.

(d) *Posthearing motions.* Motions made after the hearing closes must be filed in writing with the Regional Director. Any response to a posthearing motion must be filed with the Regional Director within five (5) days after service of the motion.

§ 2422.20 Rights of parties at a hearing.

(a) *Rights.* A party at a hearing will have the right:

(1) To appear in person or by a representative;

(2) To examine and cross-examine witnesses; and

(3) To introduce into the record relevant evidence.

(b) *Documentary evidence and stipulations.* Parties must submit two (2) copies of documentary evidence to the Hearing Officer and a copy to all other parties. Stipulations of fact between the parties may be introduced into evidence.

(c) *Oral argument.* Parties will be entitled to a reasonable period prior to the close of the hearing for oral argument. Presentation of a closing oral argument does not preclude a party from filing a brief under paragraph (d) of this section.

(d) *Briefs.* A party will be afforded an opportunity to file a brief with the Regional Director.

(1) An original and two (2) copies of a brief must be filed with the Regional Director within thirty (30) days from the close of the hearing.

(2) A written request for an extension of time to file a brief must be filed with and received by the Regional Director no later than five (5) days before the date the brief is due.

(3) No reply brief may be filed without permission of the Regional Director.

§ 2422.21 Duties and powers of the Hearing Officer.

Option 1

(a) *Duty of the Hearing Officer.* The Hearing Officer will receive evidence and inquire fully into the relevant and material facts concerning the matters that are the subject of the hearing.

Option 2

(a) *Duty of the Hearing Officer.* The Hearing Officer will receive evidence, inquire fully into the relevant and material facts concerning the matters that are the subject of the hearing, and may make recommendations on the record to the Regional Director.

(b) *Powers of the Hearing Officer.* During the period a case is assigned to a Hearing Officer by the Regional Director and prior to the close of the hearing, the Hearing Officer may take any action necessary to schedule, conduct, continue, control, and regulate the hearing, including ruling on motions when appropriate.

§ 2422.22 Objections to the conduct of the hearing.

(a) *Objections.* Objections are oral or written complaints concerning the conduct of a hearing.

(b) *Exceptions to rulings.* There are automatic exceptions to all adverse rulings.

§ 2422.23 Election procedures.

(a) *Regional Director conducts or supervises election.* The election will either be conducted or supervised by the Regional Director.

(b) *Notice of election.* Prior to the election a notice of election, prepared by the Regional Director, will be posted by the activity in places where notices to employees are customarily posted and/or in a manner by which notices are normally distributed. The notice of election will contain the details and procedures of the election, including the appropriate unit, the eligibility period, the date(s), hour(s) and location(s) of the election, a sample ballot, and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document purporting to be a copy of the official ballot that suggests either directly or indirectly to employees that the Authority endorses a particular choice in the election may constitute grounds for setting aside an election if objections are filed under § 2422.26.

(d) *Secret ballot.* All elections will be by secret ballot.

(e) *Intervenor withdrawal from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, prior to the approval of an election agreement or before the direction of an election procedures, file a written request with the Regional Director to remove its name from the ballot. If the request is not received prior to the approval of an election agreement or before the direction of an election, unless the parties and the Regional Director agree otherwise, the intervening labor organization will remain on the ballot. The Regional Director's decision on the request is final and not subject to the filing of an application for review to the Authority.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative will not be held if the incumbent provides the Regional Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Regional Director.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election will not be held if the petitioner provides the Regional Director with a written request to withdraw the petition. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Regional Director.

(h) *Observers.* All parties are entitled to representation at the polling location(s) by observers of their own selection subject to the Regional Director's approval.

(1) Parties desiring to name observers must file in writing with the Regional Director a request for specifically named observers at least fifteen (15) days prior to an election. The Regional Director may grant an extension of time for filing a request for specifically named observers for good cause where a party requests such an extension or on the Regional Director's own motion. The request must name and identify the observers requested.

(2) An agency or activity may not use as its observer:

(i) Supervisory or managerial personnel;

(ii) Employees eligible to vote in the election;

(iii) Employees who have any official connection with any of the labor organizations involved; or

(iv) Non-employees of the Federal government.

(3) A labor organization may not use as its observer:

(i) Supervisory or managerial personnel;

(ii) Non-employees of the Federal government; or

(iii) Employees on leave without pay status who are working for the labor organization involved.

(4) Objections to a request for specific observers must be filed with the Regional Director stating the reasons in support within five (5) days after service of the request.

(5) The Regional Director's ruling on requests for and objections to observers is final and binding and is not subject to the filing of an application for review with the Authority.

§ 2422.24 Challenged ballots.

(a) *Filing challenges.* A party or the Regional Director may, for good cause,

challenge the eligibility of any person to participate in the election prior to the employee voting.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) prior to the tally of ballots, the unresolved challenged ballots will be impounded and preserved until a determination can be made, if necessary, by the Regional Director.

§ 2422.25 Tally of ballots.

(a) *Tallying the ballots.* When the election is concluded, the Regional Director will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Regional Director will serve the tally of ballots to the parties in accordance with the election agreement or direction of election.

(c) *Valid ballots cast.* Representation will be determined by the majority of the valid ballots cast.

§ 2422.26 Objections to the election.

(a) *Filing objections to the election.* Objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election must be submitted to the Regional Director. Objections must be filed and received by the Regional Director within five (5) days after the tally of ballots has been furnished. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. An original and two (2) copies of the objections must be received by the Regional Director.

(b) *Supporting evidence.* The objecting party must file with the Regional Director evidence, including signed statements, documents and other materials supporting the objections within ten (10) days after the objections are filed.

§ 2422.27 Determinative challenged ballots and objections.

(a) *Investigation.* The Regional Director will investigate objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

(b) *Burden of proof.* A party filing objections to the election bears the burden of proof by a preponderance of the evidence concerning those objections. However, no party bears the burden of proof on challenged ballots.

(c) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and in accordance with § 2422.33, objections and/or determinative challenged ballots may be consolidated with an unfair labor practice hearing. Such consolidated hearings will be conducted by an Administrative Law Judge. Exceptions and related submissions must be filed with the Authority and the Authority will issue a decision in accordance with Part 2423 of this chapter, except for the following:

(1) Sections 2423.18 and 2423.19(j) of this Subchapter concerning the burden of proof and settlement conferences are not applicable;

(2) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted as provided by § 2423.26(a) of this Subchapter; and,

(3) References to ''charge'' and ''complaint'' in § 2423.26(b) of this chapter will be omitted.

(d) *Regional Director Action.* After investigation, the Regional Director will take appropriate action consistent with § 2422.30.

§ 2422.28 Runoff elections.

(a) *When a runoff may be held.* A runoff election is required in an election involving at least three (3) choices, one of which is ''no union'' or ''neither,'' when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the Regional Director has ruled on objections to the election and determinative challenged ballots.

(b) *Eligibility.* Employees who were eligible to vote in the original election and who are also eligible on the date of the runoff election may vote in the runoff election.

(c) *Ballot.* The ballot in the runoff election will provide for a selection between the two choices receiving the largest and second largest number of votes in the election.

§ 2422.29 Inconclusive elections.

(a) *What is an inconclusive election.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is ''no union'' or ''neither'' and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Regional Director determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* A current payroll period will be used to determine eligibility to vote in a rerun election.

(c) *Ballot.* If the Regional Director determines that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will indicate a majority of valid ballots has not been cast for any choice and a certification of results will be issued. If necessary, a runoff may be held when an original election is rerun.

§ 2422.30 Regional Director investigations, notices of hearings, actions, and Decisions and Orders.

(a) *Regional Director investigation.* The Regional Director will make such investigation of the petition and any other matter as the Regional Director deems necessary.

(b) *Regional Director notice of hearing.* The Regional Director will issue a notice of hearing to inquire into any matter about which a material issue of fact exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) *Regional Director action and Decision and Order.* After investigation and/or hearing, when a hearing has been ordered, the Regional Director will resolve the matter in dispute and, when appropriate, issue a Decision and Order.

(d) *Appeal of Regional Director Decision and Order.* A party may file with the Authority an application for review of a Regional Director Decision and Order.

(e) *Contents of the Record.* When no hearing has been conducted all material submitted to and considered by the Regional Director during the investigation becomes a part of the record. When a hearing has been conducted, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

§ 2422.31 Application for review of a Regional Director Decision and Order.

(a) *Filing an application for review.* A party must file an application for review with the Authority within sixty (60) days of the Regional Director's Decision and Order. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f) may not be extended or waived.

(b) *Contents.* An application for review must be sufficient to enable the Authority to rule on the application without recourse to the record. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific reference to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director.

Option 1

(c) *Review.* The Authority may grant an application for review only where it appears that compelling reasons exist therefor. Accordingly, an application for review may be granted only upon one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent or the decision is based upon a clear error in application of law or policy;

(2) The decision is based on law or policy which clearly warrants reconsideration;

(3) The conduct of a hearing or a procedural ruling has resulted in prejudicial error;

(4) The Regional Director's decision regarding a substantial factual issue was clearly erroneous and prejudicially affected the rights of a party;

Option 2

(c) Review. (1) Assertions required for review. The Authority will grant an application for review when a party filing has specifically asserted and established that:

(i) Review of the decision is warranted on one or more of the grounds set forth in paragraph (c)(2) of this section and,

(ii) The Authority's decision will have a substantial impact on labor-management relations law, as set forth in paragraph (c)(3) of this section.

(2) Grounds warranting review. A filing party must assert and establish that review of a Regional Director's decision is warranted on one or more of the following grounds:

(i) The decision raises an issue for which there is an absence of precedence or the decision is based upon a clear error in application of law or policy;

(ii) The decision is based on law or policy which clearly warrants reconsideration;

(iii) The conduct of a hearing or a procedural ruling has resulted in prejudicial error;

(iv) The Regional Director's decision regarding a substantial factual issue was clearly erroneous and prejudicially affected the rights of a party;

(3) Substantial impact on labor-management relations law. In addition to the requirements set forth in subsection (d), a filing party must assert and establish that the Authority's decision will have a substantial impact on labor-management relations law. Such impact may be found, but is not limited to, situations where:

(i) The Regional Director's Decision is likely to have a substantial impact in cases other than the one(s) directly involved in the decision; or

(ii) Review would resolve a question of particular importance to the Federal sector labor-management relations program.

(4) Discretionary determination of Authority to review. Notwithstanding paragraphs (c), (d), and (e) of this section, an application for review may be granted when, in the Authority's discretion, extraordinary circumstances exist for reviewing the Regional Director's Decision and Order.

(d) *Opposition.* A party may file with the Authority an opposition to an application for review within ten (10) days after the party is served with the application. A copy must be served on the Regional Director and all other parties and a statement of service must be filed with the Authority.

(e) *Regional Director Decision and Order becomes the Authority's action.* A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No application for review is filed with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A timely application for review is filed with the Authority and the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days of the filing of the application; or

(3) The Authority denies an application for review of the Regional Director's Decision and Order.

(f) *Authority grant of review and stay.* The Authority may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review does not stay any action ordered by the Regional Director unless specifically ordered by the Authority.

(g) *Briefs if review is granted.* If the Authority does not rule on the issue(s) in the application for review in its order granting review, the Authority may, in its discretion, afford the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Authority's order granting review.

§ 2422.32 Certifications and revocations.

(a) *Certifications.* The Regional Director will issue an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No objections are filed or challenged ballots are not determinative, or

(ii) Objections and determinative challenged ballots are decided and resolved; or

(2) The Regional Director issues a Decision and Order requiring a certification and the Decision and Order becomes the action of the Authority under § 2422.31(h) or the Authority otherwise directs the issuance of a certification.

(c) *Revocations.* Without prejudice to any rights and obligations which may exist under the Statute, the Regional Director will revoke a recognition or certification, as appropriate, and provide a written statement of reasons when:

(1) An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or

(2) Due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.

§ 2422.33 Relief obtainable under Part 2423.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief if filed or raised as an unfair labor practice under Part 2423 of this Chapter, *Provided,* that related matters may be consolidated for hearing as noted in § 2422.27(c) of this subpart.

§ 2422.34 Rights and obligations during the pendency of representation proceedings.

(a) *Existing recognitions, agreements, and obligations under the Statute.* During the pendency of any representation proceeding, parties are obligated to maintain existing recognitions, adhere to the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, *Provided,* that its actions may be challenged, reviewed, and remedied where appropriate.

Dated: August 1, 1995.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 95–19214 Filed 8–3–95; 8:45 am]

BILLING CODE 6267–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 95–046–1]

Importation of Fruits and Vegetables; Phytosanitary Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) is soliciting public comment on a change we are considering making to the fruits and vegetables import regulations. We are considering requiring a phytosanitary certificate to accompany all shipments of imported produce, both commercial shipments and produce brought into the United States by individual travelers. We believe this change would substantially increase our ability to exclude dangerous plant pests associated with produce from the United States, but it would also require substantial changes in the practices of travelers and importers who bring produce into the United States.

DATES: Consideration will be given only to comments received on or before October 3, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–046–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–046–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Levy or Mr. Frank E. Cooper, Senior Operations Officers, Port Operations, PPQ, APHIS, Suite 4A03, 4700 River Road Unit 139, Riverdale, MD 20737–1236; (301) 734–8645.

SUPPLEMENTARY INFORMATION:

Background

The Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*) authorize the Animal and Plant Health Inspection Service (APHIS) to prohibit or restrict the importation into the United States of any plants, roots, bulbs, seeds, or other plant products, including fruits and vegetables, to prevent the introduction of plant pests into the United States. ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 *et seq.*) contains restrictions on the importation into the United States of fruits, vegetables, and plants or portions of plants used as packing material in connection with shipments of fruits and vegetables.

A phytosanitary certificate is a document issued by a plant protection official of a national government that is issued to facilitate the international movement of a plant or plant product article. A phytosanitary certificate certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation into the country of destination pursuant to the current phytosanitary laws and regulations of that country. A phytosanitary certificate may also contain additional declarations regarding the area of origin, conditions of growth, or treatment of the article, when such information is relevant to the eligibility of the article for importation. The form and use of phytosanitary certificates is governed by the International Plant Protection Convention.

Phytosanitary certificates are in wide use in international trade. APHIS issues thousands of phytosanitary certificates each year to facilitate export of United States agricultural products to countries that require phytosanitary certificates to accompany such products. We also require many agricultural products imported into the United States to be accompanied by phytosanitary certificates.

For example, phytosanitary certificates are required for restricted articles under 7 CFR 319.37 *et seq.*, ''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,'' and under 7 CFR 319.75 *et seq.*, ''Subpart—Khapra Beetle.''

Phytosanitary Certificate Requirement for All Imported Produce

We are considering requiring a phytosanitary certificate to accompany all shipments of imported produce, both commercial shipments and produce brought into the United States by individual travelers.

Historically, we have not required a phytosanitary certificate for imports of fresh produce because, given the volume of produce entering the United States, we felt that we could provide adequate protection for U.S. agriculture by having well-trained United States Department of Agriculture (USDA) personnel inspect all imported produce. Port of entry inspection by our officers was, and continues to be, an important safeguard to which all imported produce is subject.

Today, from the standpoint of quarantine control, the picture of produce importations is changing dramatically. The number of foreign travelers continues to increase. The amount of produce they bring with them likewise continues to increase, and the pest risk inherent in such importations may well have increased. Commercial importations also continue to increase in quantity and variety of product.

At the same time, foreign Ministries of Agriculture are increasingly able to provide phytosanitary export inspection and certification. We believe that the availability and overall quality of these activities has improved, partly as a result of our International Services programs abroad.

Imported produce presents a relatively high risk of introducing exotic plant pests. Produce brought by travelers is particularly dangerous because:

- The origin of the produce is often difficult to determine.
- The produce is often grown in dooryards with little or no pest control.
- Travelers bring noncommercial varieties with unknown susceptibility to pests and diseases.
- The fruits are often ripe or overripe and therefore particularly susceptible to infestations.
- Historically, decisions to allow importation of produce were based on an evaluation of the pest risk associated with commercial production, not backyard production.

In addition to the above, we now face increasing restrictions on the number of personnel we can devote to inspecting produce imports. It appears that these restrictions will be of long duration if not permanent. We are finding it increasingly difficult to provide the level of quarantine security we feel is needed. To a significant extent, a phytosanitary certificate requirement is an effective augmentation to inspection.

The phytosanitary certificate requirement would provide a significant measure of protection against the introduction of exotic plant pests. This

requirement would represent a significant change from current practice. Therefore, if we make this change we would conduct an intensive public relations campaign to alert importers and travelers to the new requirement and encourage compliance. Compliance with this new phytosanitary certificate requirement should significantly reduce the infestation levels in both commercial and non-commercial importations.

As we see it, these are the positive effects of a phytosanitary certificate requirement:

- The quantity of produce brought by travelers would be curtailed, resulting in far fewer infested lots of produce being imported from dooryard gardens and infested countries, thereby reducing the risk of pest introduction.
- Commercial and noncommercial importations would have the added safeguard of a foreign issued phytosanitary certificate, which would certify that the produce was inspected and found to comply with our requirements. The phytosanitary certificate could also be the focal point of APHIS's feedback to countries that inadvertently certify prohibited or infested produce.
- The requirement would be legally sound, based on the Agency's statutory authority, and be in accord with the International Plant Protection Convention.

The negative effects for which we must plan are:

- Despite a public relations campaign, there would be numerous complaints from travelers about seized produce, especially during the first year of enforcement.
- APHIS would have to prepare for increased smuggling because the phytosanitary certificate requirement would essentially prohibit produce brought by travelers.
- All countries shipping produce to the United States would have to provide phytosanitary certificates for all shipments. These countries might have difficulties dealing with the increased workload, and effects might include increases in the number of errors and improperly issued phytosanitary certificates. Importers might assume that improperly issued phytosanitary certificates authorize them to import prohibited produce.
- APHIS would have to prepare guidelines for enforcement of the new requirements.

The phytosanitary certificate requirement would have a strong effect on movements into the United States from Canada and Mexico. In particular, local residents bring a large quantity of produce across the Mexican border as groceries for local consumption in the United States. Along the border, these groceries are known as ''mandado''.

If a phytosanitary certificate requirement is imposed, all fruit and vegetable mandado would be subject to it. However, the current systems for issuing phytosanitary certificates in Mexico do not make it feasible for customers in retail stores and fruit and vegetable stands to obtain certificates so that they could legally bring their purchases into the United States. Therefore, unless the system for issuing certificates in Mexico changes significantly, imposition of a phytosanitary certificate requirement would mean that persons would be unable to practically and legally import mandado into the United States. Based on our many years' experience in examining mandado on the Mexican border, we believe that admissible fruits and vegetables in mandado do not present a significant pest risk. We also recognize that the phytosanitary certificate requirement could result in inconvenience and increased costs for thousands of persons who daily bring Mexican fruits and vegetables across the border for consumption in the United States.

A somewhat similar situation might apply with regard to the Canadian border, although there is less traffic of this sort from Canada. We welcome suggestions on how to accommodate movements for local consumption from Canada and Mexico without sacrificing quarantine effectiveness. We also welcome comments on any other issue related to a possible proposal to require phytosanitary certificates to accompany all produce imported into the United States.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 27th day of July 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–19184 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–34–P

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7 CFR Part 319

[Docket No. 94–116–4]

Importation of Fresh Hass Avocado Fruit Grown in Michoacan, Mexico; Public Hearings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public hearings.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is hosting five public hearings on the proposed rule on the importation of fresh Hass avocado fruit grown in Michoacan, Mexico, that we published in the **Federal Register** on July 3, 1995.

DATES: The public hearings will be held in Washington, DC, on August 17 and 18, 1995; in Flushing, NY, on August 22, 1995; in Homestead, FL, on August 23, 1995; in Chicago, IL, on August 28, 1995; and in Escondido, CA, on August 30 and 31, 1995. Each public hearing will begin at 9 a.m. and is scheduled to end at 5 p.m.

ADDRESSES: The public hearings will be held at the following locations:

1. Washington, DC: Jefferson Auditorium, U.S. Department of Agriculture, South Building, 14th Street and Independence Avenue SW., Washington, DC.
2. Flushing, NY: Best Western Midway Hotel, 108–25 Horace Harding, Flushing, NY.
3. Homestead, FL: Redland Country Club, 24451 SW. 177th (Crone) Avenue, Homestead, FL.
4. Chicago, IL: Holiday Inn—O'Hare International, 5440 North River Road, Chicago, IL.
5. Escondido, CA: California Center for the Arts, 340 North Escondido Boulevard, Escondido, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Harabin, Head, Permit Unit, Port Operations, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737–1236, (301) 734–8645, or FAX (301) 734–5786.

SUPPLEMENTARY INFORMATION: Five public hearings will be held on the notice of proposed rulemaking on the importation of fresh Hass avocado fruit grown in Michoacan, Mexico, published by the Animal and Plant Health Inspection Service (APHIS) in the **Federal Register** on July 3, 1995 (60 FR 34831–34842, Docket No. 94–116–3). The first public hearing will be dedicated exclusively to the scientific basis for that proposed rule. This first hearing will be open to the public, but participation will be limited to experts in the fields of pest risk assessment and pest risk mitigation measures. Four additional hearings will be held to provide a full opportunity to all interested parties to address every aspect of the proposed rule.

The First Public Hearing—Presentations by Experts in Risk Assessment

The first public hearing, on the scientific basis for this proposed rule, is

scheduled to be held in Washington, DC, on August 17 and 18, 1995. This hearing will focus exclusively on the APHIS pest risk assessment documents upon which the proposed rule is based, and will provide an opportunity for experts in relevant disciplines to present their views on those documents and the scientific issues raised by them.

The APHIS pest risk assessment documents upon which the proposed rule is based identify the plant pest risks associated with the importation of Hass avocados grown in approved orchards in approved municipalities in Michoacan, Mexico, discuss the mitigation measures identified as reasonable and necessary to prevent the introduction of plant pests into the United States, and contain a quantitative risk analysis examining the likelihood of plant pest introduction into the United States if Hass avocados are allowed to be imported under the conditions described in the proposed rule.

Participation in the Washington, DC, hearing will be limited to those who register and who identify themselves as having expertise in the areas of pest risk assessment and mitigation measures. Experts wishing to participate will be asked to furnish for the record their educational background and their expertise and qualifications relevant to pest risk assessment and mitigation measures. Such experts include scientists, technical experts, and academicians expert in entomology, plant health, plant pathology, risk assessment, and risk mitigation. Federal, State, and local officials, growers, and handlers who have experience with risk assessment, plant protection, quarantine, or risk mitigation measures will also be welcome to participate in this first public hearing.

Presenters are welcome to register as a panel if they believe a panel of experts from several fields would foster a more complete discussion and evaluation of issues related to the pest risk assessment underlying this proposal.

Additional Public Hearings

Four additional hearings will be held during the period between August 22, 1995, and August 31, 1995, to address all aspects of this proposed rule. These four public hearings are scheduled to be held in Flushing, NY, on August 22, 1995; Homestead, FL, on August 23, 1995; Chicago, IL, on August 28, 1995; and Escondido, CA, on August 30 and 31, 1995.

Any interested party may appear and be heard in person, or through an attorney or other representative. We are interested in obtaining the views of the public on all aspects of the proposed rule, including the APHIS pest risk assessment documents and the conclusions contained therein.

General Information Applicable to All Five Public Hearings

The APHIS pest risk assessment documents upon which the proposed rule is based are available. Parties interested in receiving copies may obtain them by contacting APHIS' Legislative and Public Affairs Staff at (301) 734–3256 or by writing to Legislative and Public Affairs, 4700 River Road Unit 51, Riverdale, Maryland 20737–1232. Copies of the risk assessment documents will be available at each of the scheduled public hearings.

Persons who wish to speak at the hearings will be asked to provide their names and their affiliations. Those who wish to form a panel to present their views will be asked to provide the name of each member of the panel and the organizations the panel members represent. Parties wishing to make oral presentations may register in advance by calling the Regulatory Analysis and Development voice mail at (301) 734–4346 and leaving a message stating their name, telephone number, organization, and location of the hearing at which they wish to speak. If a party is registering for a panel, the party will also be asked to provide the name of each member of the panel and the organization each panel member represents.

The hearings will begin at 9 a.m. and are scheduled to end at 5 p.m. each day. The Washington, DC, and Escondido, CA, hearings may conclude at any time on the second day if all persons who have registered to participate have been heard. Similarly, the other three hearings may conclude earlier than 5 p.m. if all persons who have registered have been heard. The presiding officer may extend the time of any hearing or limit the time for each presentation so that everyone is accommodated and all interested persons appearing on the scheduled dates have an opportunity to participate.

Registration for each hearing may be accomplished in advance in accordance with the above-described instructions, or by registering with the presiding officer between 8:30 a.m. and 9 a.m. on any hearing day.

A representative of APHIS will preside at each public hearing. Written statements are encouraged, but not required. Any written statement submitted will be made part of the record of the public hearing. Anyone who reads a written statement should provide two copies to the presiding officer at the hearing. A transcript will be made of each public hearing and the transcript will be placed in the rulemaking record and will be available for public inspection.

The purpose of these public hearings is to give all interested parties an opportunity to present data, views, and information to the Department concerning this proposed rule. Questions about the content of the proposal may be part of a commenter's oral presentation. However, neither the presiding officer nor any other representative of the Department will respond to the comments at the hearing, except to clarify or explain the proposed rule and the documents upon which the proposal is based.

Done in Washington, DC, this 31st day of July 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–19183 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 94

[Docket No. 95–050–1]

Uruguay; Change in Disease Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare Uruguay free of rinderpest and foot-and-mouth disease. As part of this proposed action, we would add Uruguay to the list of countries that, although declared free of rinderpest and foot-and-mouth disease, are subject to restrictions on meat and other animal products offered for importation into the United States. Declaring Uruguay free of rinderpest and foot-and-mouth disease appears to be appropriate because the last outbreak of foot-and-mouth disease in Uruguay occurred in 1989, there have been no vaccinations for foot-and-mouth disease in Uruguay since June 1994, and rinderpest has never existed in Uruguay. This proposed rule would remove the prohibition on the importation into the United States, from Uruguay, of ruminants and fresh, chilled, and frozen meat of ruminants, although those importations would be subject to certain restrictions. This proposed rule would also relieve certain prohibitions and restrictions on the importation, from Uruguay, of milk and milk products of ruminants.

DATES: Consideration will be given only to comments received on or before October 3, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–050–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–050–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Blackwell, Senior Staff Microbiologist, Import-Export Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–5875.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including rinderpest and foot-and-mouth disease (FMD). Rinderpest and FMD are dangerous and destructive communicable diseases of ruminants and swine.

Section 94.1(a)(1) of the regulations provides that rinderpest or FMD exists in all countries of the world except those listed in § 94.1(a)(2), which have been declared to be free of both diseases. We will consider declaring a country free of rinderpest and FMD if, among other things, there have been no reported cases of the diseases in that country for at least the previous 1-year period and if no vaccinations for rinderpest or FMD have been administered to ruminants or swine in that country for at least the previous 1-year period.

The last outbreak of FMD in Uruguay occurred in 1989. There have been no vaccinations for FMD in Uruguay since June 1994. Rinderpest has never existed in Uruguay. Based on these considerations, the government of Uruguay has requested that the United States Department of Agriculture (USDA) declare Uruguay free of rinderpest and FMD.

The Animal and Plant Health Inspection Service (APHIS) reviewed the documentation submitted by the government of Uruguay in support of its request, and a team of APHIS officials traveled to Uruguay in 1994 to conduct an on-site evaluation of the country's animal health program with regard to the rinderpest and FMD situation in Uruguay. The evaluation consisted of a review of Uruguay's veterinary services, diagnostic procedures, vaccination practices, and administration of laws and regulations intended to prevent the introduction of rinderpest and FMD into Uruguay through the importation of animals, meat, or animal products. The APHIS officials conducting the on-site evaluation concluded that Uruguay is free of rinderpest and FMD. (Details concerning the on-site evaluation are available, upon written request, from the person listed under **FOR FURTHER INFORMATION CONTACT**.)

Based on the information discussed above, we are proposing to amend § 94.1(a)(2) by adding Uruguay to the list of countries declared to be free of both rinderpest and FMD. This proposed action would remove the prohibition on the importation, from Uruguay, of ruminants and fresh, chilled, and frozen meat of ruminants, and would relieve restrictions on the importation, from Uruguay, of milk and milk products of ruminants. However, because Uruguay has not been declared free of hog cholera, the importation into the United States, from Uruguay, of pork and pork products would continue to be restricted under § 94.9 of the regulations, and the importation of swine from Uruguay would continue to be restricted under § 94.10. Also, for the reasons discussed below, we would make the importation of meat and other animal products of ruminants or swine from Uruguay subject to the restrictions in § 94.11.

We are proposing to amend § 94.11(a) by adding Uruguay to the list of countries that have been declared free of rinderpest and FMD but from which the importation of meat and other animal products is restricted. The countries listed in § 94.11(a) are subject to these restrictions because they: (1) Supplement their national meat supply by importing fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in § 94.1(a) as infected with rinderpest or FMD; (2) have a common land border with a country designated as infected with rinderpest or FMD; or (3) import ruminants or swine from countries designated as infected with rinderpest or FMD under conditions less restrictive than would be acceptable for importation into the United States.

Uruguay supplements its national meat supply by importing fresh, chilled and frozen meat of ruminants and swine from countries designated in § 94.1(a)(1) as countries in which rinderpest or FMD exists. In addition, Uruguay has common land borders with Brazil and Argentina, which are both designated in § 94.1(a)(1) as countries in which rinderpest or FMD exists. As a result, although Uruguay appears to qualify for designation as a country free of rinderpest and FMD, there is the potential that meat or other animal products produced in Uruguay may be commingled with the fresh, chilled, or frozen meat of animals from a country in which rinderpest or FMD exists. This potential for commingling constitutes an undue risk of introducing rinderpest or FMD into the United States.

Therefore, we are proposing that meat and other animal products of ruminants or swine, as well as the ship stores, airplane meals, or baggage containing such meat or other animal products, originating in Uruguay be subject to the restrictions specified in § 94.11 of the regulations and to the applicable requirements contained in the regulations of the USDA's Food Safety and Inspection Service at 9 CFR chapter III. Section 94.11 generally requires that the meat and other animal products of ruminants or swine be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by an additional certification from a full-time salaried veterinary official of the national government of the exporting country stating, among other things, that the meat or other animal product has not been commingled with or exposed to meat or other animal products originating in, imported from, or transported through a country infected with rinderpest or FMD.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This proposed rule, if adopted, would amend the regulations in part 94 by adding Uruguay to the list of countries declared to be free of rinderpest and FMD. This action would remove the prohibition on the importation into the United States, from Uruguay, of ruminants and fresh, chilled, and frozen meat of ruminants, although those

imports would be subject to certain restrictions.

The proposed revision would also relieve restrictions on the importation, from Uruguay, of milk and milk products of ruminants. This action would not relieve certain restrictions on the importation of live swine and fresh, chilled, and frozen meat of swine from Uruguay because Uruguay is still considered to be affected with hog cholera.

The primary effects of the proposed change in the regulations would be to bovine meat and prepared products. Swine and swine products are excluded because of restrictions due to hog cholera, and the United States has not imported any mutton, lamb, or goat meat from Uruguay in the last 2 years. This situation is not expected to change as a result of the proposed rule.

This proposed rule is not expected to affect United States imports of miscellaneous animal products from Uruguay, including embryos, semen, breeding animals, and other products.

The increase in beef imports resulting from the proposed regulation change is expected to have a minimal negative impact on producers, while benefitting consumers.

Uruguayan beef production is made up mostly of grass-fed product. These animals take longer to reach slaughter weights and are lighter at slaughter than grain-fed cattle. As a result, although Uruguayan cattle inventories (10.4 million at the end of 1994) are about 10 percent of United States cattle inventories (103.3 million on January 1, 1995), Uruguayan beef production runs at only 2 to 4 percent of United States production. Uruguay currently exports one third of its beef production. However, Uruguay is not expected to exceed the 20,000 metric ton (MT) tariff-free quota limit for exports of beef into the United States established under the General Agreement on Tariffs and Trade (GATT).

Twenty-two percent of United States beef consumption goes into ''non table-cut'' applications, such as fast-food hamburgers and other prepared meats; 78 percent of United States beef consumption goes into consumer applications, such as steak and filet mignon, that require beef produced from grain-fed cattle. (Beef produced in the United States comes predominantly from grain-fed cattle and is used for higher-quality table-cuts.) Most of the beef exported from Uruguay is produced from grass-fed cattle and is suitable for lower-quality, non table-cut applications. However, select cuts of beef from grass-fed cattle may be of the same quality as cuts from grain-fed cattle. For the most part, beef exports from Uruguay would affect the market for non table-cut beef in the United States.

Beef and dairy farms and feedlot operators would experience the greatest impact as a result of the proposed rule. According to Small Business Administration (SBA) criteria, beef and dairy farms with annual sales of less than $0.5 million are considered small. In 1992, 801,940 operations with beef cows were considered small. These small farms averaged sales of $20,976 in 1992, as opposed to average sales of $1.3 million on large farms.

Recent USDA data indicated that 152,500 dairy farms were considered small. In addition to the sale of dairy products, the sale of culled dairy cattle and young stock not retained for milking or breeding contributed to dairy farm income. In the worst case scenario, the proposed rule would produce a drop in net farm income of $15 on small beef farms and $83 on small dairy farms when imports were assumed to consist of beef from grass-fed cattle.

With regards to the sale of dairy products, the Department does not anticipate a major increase in exports of milk and milk products from Uruguay into the United States as a result of this proposed rule. Only about 10 percent of Uruguay's cow herd is made up of dairy cows, and it is expected that the increase in beef cattle returns will not significantly alter this situation. In addition, all dairy products imported into the United States are restricted by quotas except for casein, caseinate, and other casein derivatives (hereafter referred to as casein), which are dry milk products. The United States does not produce casein, but does import more than half of the casein produced in the world. Uruguay has not exported casein to the United States in recent years. Declaring Uruguay free of FMD is expected to have a minimal effect on the amount of casein imported into the United States.

According to the SBA, feedlots with sales of less than $1.5 million are considered small. Recent USDA data indicate that 30 percent of feedlots in the United States are considered small. In the worst case scenario, the proposed rule would produce a loss of $30 per year in gross sales for a small feedlot.

The impact of the proposed rule on cattle dealers/haulers and cattle slaughterers/primary processors would be minimal because the reduction in the number of cattle marketed and the number of truck hauls required to move them would be very small in relation to the current numbers.

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

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

Accordingly, 9 CFR part 94 would be amended as follows:

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

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) would be amended by removing ''and Trust Territory of the Pacific Islands.'' and adding ''Trust Territory of the Pacific Islands, and Uruguay.'' in its place.

§ 94.11 [Amended]

5. In § 94.11, paragraph (a), the first sentence would be amended by removing ''and Switzerland,'' and adding ''Switzerland, and Uruguay,'' in its place.

Done in Washington, DC, this 31st day of July, 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–19182 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AGL–8]

Revision of Class E Airspace; Rice Lake, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise Class E airspace to accommodate a Nondirectional Radio Bacon (NDB) for runway 19 approach at Rice Lake Municipal Airport, Rice Lake, WI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed for aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before September 11, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 95–AGL–8, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Griffith, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regularly decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AGL–8.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace to accommodate a Nondirectional Radio Beacon (NDB) for runway 19 approach at Rice Lake Municipal Airport, Rice Lake, WI. Controlled airspace extending from 700 to 1200 feet AGL is needed for aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 proposed 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40102, E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 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 The Class E Airspace Area Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AGL WI E5 Rice Lake, WI [Revised]

Rice Lake Municipal Airport, WI
(Lat. 45°28′46″ N, long. 91°43′14″ W)
Rice Lake NDB
(Lat. 45°28′46″ N, long. 91°43′14″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Rice Lake Municipal Airport, excluding that airspace within the Cumberland, WI, and Chetek, WI, Class E airspace area, and within 3.2 miles either side of the Rice Lake NDB 033 radial extending from the 6.6-mile radius to 7 miles northeast of the NDB.

* * * * *

Issued in Des Plaines, Illinois, on July 25, 1995.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 95–19187 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AGL–11]

Establishment of Class E Airspace; Shell Lake, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E5 airspace to accommodate a Very High Frequency Omnidirectional Range (VOR) and Distance Measuring Equipment (DME) for runway 32 approach at Shell Lake Municipal Airport, Shell Lake, WI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed for aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before September 11, 1995.

ADDRESSES: Send Comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 95–AGL–11, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Griffith, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AGL–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 Eat Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace to accommodate a Very High Frequency Omnidirectional Range (VOR) and Distance Measuring Equipment (DME) for runway 32 approach at Shell Lake Municipal Airport, Shell Lake, WI. Controlled airspace extending from 700 to 1200 feet AGL is needed for aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 proposed 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to

amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40102; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 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 The Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AGL WI E5 Shell Lake, WI [New]

Shell Lake Municipal Airport, WI
(Lat. 45°43′53″N, Long. 91°55′14″W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Shell Lake Municipal airport and within 2.7 miles either side of the 143-degree bearing from the airport extending from the 6.3-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois, on July 25, 1995.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 95–19186 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM93–4–000]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued July 28, 1995.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule; Notice of public conference.

SUMMARY: The Commission has required interstate natural gas pipelines to provide certain information about capacity, including information about released capacity, on Electronic Bulletin Boards. In the final rule in this proceeding, the Commission adopted the recommendation of Working Groups to require downloads of capacity release information through files conforming to standards for Electronic Data Interchange. The Commission is now convening a public conference to consider the current state, and future development, of electronic communication in the natural gas industry.

DATES: Public conference: September 21, 1995; requests to participate: September 1, 1995.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–2294.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street NE., Washington DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington DC 20426.

Notice of Public Conference

July 28, 1995.

Take notice that a public conference in this proceeding will be held on September 21, 1995, in the Commission Meeting Room, 825 North Capitol Street NE., Washington, DC 20426. The conference is to consider the current state, and future development, of electronic communication in the natural gas industry.

In Order No. 636, the Commission required interstate natural gas pipelines to provide certain information about capacity, including information about released capacity, on Electronic Bulletin Boards (EBBs).[1] The Commission subsequently instituted a process to develop standardized procedures for capacity release information. The standards were developed by Working Groups consisting of representatives from all facets of the natural gas industry and other interested parties such as third-party bulletin board operators and computer and software firms. In Order No. 563, the Commission adopted the recommendation of the Working Groups to require downloads of capacity release information through files conforming to standards for Electronic Data Interchange (EDI).[2]

The Working Group[3] has continued to further refine the capacity release download files. The Working Group also has begun to develop electronic communication standards in other areas. The Working Group's nine highest priority data requirements, in order of priority, are nominations, allocated gas flows, imbalances, gas flow at metered points, transportation invoices, pre-determined allocation methodologies, gas payment remittance statements and gas sales invoices, and uploads of capacity release prearranged deals. Members of the natural gas industry also have formed a Gas Industry Standards Board (GISB), whose purpose is to develop standards for electronic information exchange. The Working Group has transferred ongoing maintenance of the capacity release EDI data sets to GISB.

Members of the Commission intend to participate in the public conference. The Commission is interested in hearing industry views about: the current state of EBB operation and the capacity release downloads, including any third-party services being provided to supplement the pipeline EBBs; whether standards should be developed for EBBs (as opposed to file downloads and uploads); the progress being made in standardizing non-capacity release information, including the time-table for completion of standards; whether

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[1] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (Apr. 16, 1992), III FERC Stats. & Regs. Preambles ¶ 30,939 (Apr. 8, 1992), *appeal re-docketed sub nom.*, United Distribution Companies, *et al.* v. FERC, No. 92–1485 (D.C. Cir. Feb. 8, 1995).

[2] Standards For Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Dec. 23, 1993), *order on reh'g*, Order No. 563–A, 59 FR 23624 (May 6, 1994), III FERC Stats. & Regs. Preambles ¶ 30,994 (May 2, 1994), *reh'g denied*, Order No. 563–B, 68 FERC ¶ 61,002 (1994).

[3] The five initial Working Groups eventually consolidated into one.

additional standardization is necessary to facilitate more robust capacity trading; whether the Working Group priorities are acceptable; and how the Commission should be involved in this process. The Commission also is interested in receiving comment on GISB's current and future role in developing standards and on the structure of the relationship between GISB and the Commission.

Any person who wishes to make a formal presentation to the Commission should submit a request to the Secretary of the Commission no later than September 1, 1995. Each request should include the time anticipated for the presentation and any special equipment requirements. Every effort will be made to accommodate requests to make presentations, but, depending on the number of requests received, the Commission may have to limit participation. To provide a more productive conference, the Commission encourages interested parties to coordinate their efforts and choose one spokesperson to make a statement on behalf of the group. After reviewing the presentation requests, a subsequent notice of the conference presentation schedule will be issued.

If sufficient interest is shown, the Commission will attempt to arrange for broadcast of the conference in the Washington, DC metropolitan area or nationally. Those interested in the local or national television broadcast should call The Capitol Connection at (703) 993–3100 no later than September 7, 1995. Requests from viewers outside of Washington, DC, should be directed to Julia Morelli or Shirley Al-Jarani.

All questions concerning the format of the conference should be directed to: Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4120–B, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2294.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–19122 Filed 8–3–95; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–44–94]

RIN 1545–AS94

Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations that provide guidance regarding the allowance of certain charitable contribution deductions, the substantiation requirements for charitable contributions of $250 or more, and the disclosure requirements for quid pro quo contributions in excess of $75. The proposed regulations will affect organizations described in section 170(c) and individuals and entities that make payments to those organizations.

DATES: Written comments must be received by November 2, 1995. Requests to appear and outlines of oral comments to be presented at the public hearing scheduled for November 1, 1995, must be received by October 11, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R(IA–44–94), Room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, D.C. 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R(IA–44–94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. The Public Hearing scheduled for November 1, 1995 at 10:00 a.m., will be held in the IRS Auditorium, 7th floor, 1111 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Jefferson K. Fox, 202–622–4930; concerning submissions and the hearing, Christina Vasquez, 202–622–6803. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224.

The collections of information are in §§ 1.170A–13(f)(1), (f)(10), (f)(14), and 1.6115–1. This information is required by the IRS to determine the deductibility of certain charitable contributions. The likely respondents are individuals or households, business or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

Estimated total annual recordkeeping burden: 100,000 hours.

Estimated average annual burden per recordkeeper: .10 hour.

Estimated number of recordkeepers: 1,000,000.

Estimated total annual reporting burden: 1,875,000 hours.

Estimated average burden per respondent: 2.5 hours.

Estimated number of respondents: 750,000.

Estimated frequency of responses: On occasion.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) that provide guidance under sections 170(a), 170(f)(8), and 6115 of the Internal Revenue Code of 1986.

Sections 170(f)(8) and 6115 were added to the Code by sections 13172 and 13173 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, 107 Stat. 455, 1993–3 C.B. 43. Temporary regulations (TD 8544) and a notice of proposed rulemaking by cross-reference to temporary regulations under section 170(f)(8) were published in the **Federal Register** for May 27, 1994 (52 FR 27458, 27515). The temporary and proposed regulations primarily address contributions made by payroll deduction and a donor's receipt of goods or services with insubstantial value. A public hearing was held on November 10, 1994. On March 22, 1995, the Service released Notice 95–15, which was published in 1995–15 I.R.B., dated April 10, 1995. Notice 95–15 provides transitional relief (for 1994) from the substantiation requirement.

Explanation of Statutory Provisions

Section 170(a) allows a deduction for certain charitable contributions to or for the use of an organization described in section 170(c). Under section 170(f)(8),

taxpayers who claim a deduction for a charitable contribution of $250 or more are responsible for obtaining from the donee organization, and maintaining in their records, substantiation of that contribution. See H.R. Conf. Rep. 2264, 103d Cong., 1st Sess. 565 (1993). Specifically, section 170(f)(8) provides that no charitable contribution deduction will be allowed under section 170(a) for a contribution of $250 or more unless the taxpayer substantiates the contribution with a contemporaneous written acknowledgment from the donee organization.

Section 170(f)(8)(B) provides that an acknowledgment meets the requirements of that section if it includes the following information: (1) the amount of cash paid and a description (but not necessarily the value) of any property other than cash transferred to a donee organization; (2) whether or not the donee organization provided any goods or services in consideration for the cash or property; and (3) a description and good faith estimate of the value of any goods or services provided by the donee organization in consideration for the cash or property. A written acknowledgment is contemporaneous, within the meaning of section 170(f)(8)(C), if it is obtained on or before the earlier of: (1) the date the taxpayer files its original return for the taxable year in which the contribution was made, or (2) the due date (including extensions) for filing the taxpayer's original return for that year.

Section 170(f)(8) does not prescribe a format for the written acknowledgment. Any document that contains the required information, including but not limited to a letter, postcard, computer-generated form, or tax form, is an acceptable means of providing a taxpayer with a written acknowledgment. For example, a private foundation may use a copy of its Form 990–PF, Return of Private Foundation, as a written acknowledgment for a taxpayer's charitable contribution of $250 or more if it contains the necessary information. Any documents that are used as a written acknowledgment of a taxpayer's charitable contribution must be contemporaneous within the meaning of section 170(f)(8)(C).

Section 6115 generally requires an organization described in section 170(c) that receives a ''quid pro quo contribution'' in excess of $75 to provide a written disclosure statement to the donor. The written disclosure statement must contain the following information: (1) a statement that the deductibility of the donor's contribution is limited to the excess of the amount of any money or the value of any property contributed by the donor over the value of the goods or services provided to the donor by the organization, and (2) a good faith estimate of the value of the goods or services provided by the organization. Section 6115(b) defines a quid pro quo contribution as a payment made partly as a contribution and partly in consideration for goods or services provided by the organization.

Explanation of Regulatory Provisions

Deductibility of a Payment in Exchange for Consideration

In *United States* v. *American Bar Endowment,* 477 U.S. 105 (1986), the Supreme Court set forth a two-part test for determining whether a payment that is partly in consideration for goods or services is deductible under section 170(a). First, a payment to an organization described in section 170(c) is deductible only if, and to the extent that, the payment exceeds the fair market value of the benefits received. Second, the excess payment must be made with the intent to make a charitable contribution. See also Rev. Rul. 67–246, 1967–2 C.B. 104.

The proposed regulations adopt this two-part test for determining whether a payment is deductible under section 170(a). Specifically, the regulations provide that, in order for a charitable contribution deduction to be allowed, a taxpayer must intend to make a payment in an amount that exceeds the fair market value of the goods or services received in return, and must actually make a payment in an amount that exceeds that fair market value.

Certain Goods or Services Disregarded

Under current law, a taxpayer who receives membership benefits in return for a payment to an organization described in section 170(c) may not claim a charitable contribution deduction for more than the amount by which the payment exceeds the fair market value of the membership benefits. *United States* v. *American Bar Endowment,* 477 U.S. 105 (1986). *See also* Rev. Rul. 68–432, 1968–2 C.B. 104; Rev. Rul. 67–246, 1967–2 C.B. 104. Accordingly, taxpayers and donee organizations must determine the fair market value of any membership benefits the donee organization provides to its donors.

It is often difficult to value membership benefits, especially rights or privileges that are not limited as to use, such as free or discounted admission or parking, and gift shop discounts. In the course of preparing these proposed regulations, the IRS and the Treasury Department have considered the extent of the difficulty of valuation and have concluded that it is appropriate to provide limited relief with respect to certain types of customary membership benefits while preserving the IRS's ability to administer the law fairly and consistently. Accordingly, the proposed regulations provide that both the donee organization and the donor may disregard certain membership benefits when they are provided in return for a payment to the organization.

Section 1.170A–13T(a) already allows donors and donee organizations to disregard goods or services that are treated as having insubstantial value under existing IRS guidelines. See Rev. Proc. 90–12, 1990–1 C.B. 471, and Rev. Proc. 92–49, 1992–1 C.B. 987. The guidelines cover low cost articles (items costing $6.60 or less for 1995), newsletters that are not commercial quality publications, and benefits worth 2% or less of a payment, up to a maximum of $66 for 1995. The substance of this section has been incorporated into section 1.170A–13(f)(8)(i).

Under the proposed regulations, other benefits may be disregarded only if they are given as part of an annual membership offered in return for a payment of $75 or less and fall into one of two categories. The first category is admission to events that are open only to members and for which the donee organization reasonably projects that the cost per person (excluding allocable overhead) for each event will be less than or equal to the standard for low cost articles under section 513(h)(2)(C) ($6.60 for 1995). An example is a modest reception where light refreshments are served to members of a donee organization before an event. The second category is rights or privileges that members can exercise frequently during the membership period. An example is free admission to a museum.

The items described in the previous two paragraphs may be disregarded for purposes of determining whether the taxpayer has made a charitable contribution, the amount of any charitable contribution that has been made, and whether any goods or services have been provided that must be substantiated under section 170(f)(8) or disclosed under section 6115. Thus, the effect of these provisions is broader than that of the temporary regulations, which provided less comprehensive relief and then only for items of insubstantial value.

Goods or Services Provided to Donor's Employees

The proposed regulations also contain relief where donee organizations provide goods or services to the employees of their donors. Goods or services that may be disregarded for the purposes specified above when provided directly to a donor may also be disregarded for the same purposes when provided to a donor's employees.

Any other goods or services provided to the donor's employees must be taken into account for purposes of calculating any charitable contribution the donor claims as a deduction. If a contemporaneous written acknowledgment of the donor's contribution is required under section 170(f)(8), it must include a description of these goods or services. However, the proposed regulations provide that the contemporaneous written acknowledgment may omit the otherwise required good faith estimate of the value of these goods or services; similarly, the proposed regulations provide that a written disclosure statement required by section 6115 for a payment made in exchange for these goods or services may include a description of them in lieu of the otherwise required good faith estimate of their value.

Good Faith Estimate

For purposes of sections 170 and 6115, the proposed regulations define a good faith estimate of the value of goods or services provided by an organization described in section 170(c) as an estimate of the fair market value of those goods or services. The fair market value of goods or services may differ from their cost to the donee organization. The organization may use any reasonable methodology that it applies in good faith in making the good faith estimate. However, a taxpayer is not required to determine how the donee organization made the estimate.

The proposed regulations further provide that a donee organization may make a good faith estimate of the value of goods or services that are not available in a commercial transaction by reference to the fair market value of similar or comparable goods or services. Goods or services may be similar or comparable even though they do not have the unique qualities of the goods or services that are being valued.

Reliance on Donee Estimates

The proposed regulations provide that a taxpayer generally may treat an estimate of the value of goods or services as the fair market value for purposes of section 170(a) if the estimate is in a contemporaneous written acknowledgment (as required by section 170(f)(8)) or a written disclosure statement (as required by section 6115). Thus, a taxpayer that makes a payment to an organization described in section 170(c) and receives an item in return generally may rely on the organization's estimate of the value of the item in calculating its charitable contribution deduction if the estimate is included in a contemporaneous written acknowledgment or a written disclosure statement.

However, a taxpayer may not treat an estimate as the fair market value of the goods or services if the taxpayer knows, or has reason to know, that such treatment is unreasonable. For example, if the taxpayer is a dealer in the type of goods or services it receives from an organization described in section 170(c), or if the goods or services are readily valued, it is unreasonable for the taxpayer to treat the donee organization's estimate as the fair market value of the goods or services if that estimate is in error and the taxpayer knows, or has reason to know, the fair market value of the goods or services.

An estimate of the value of goods or services in a contemporaneous written acknowledgment or written disclosure statement is not in error if the estimate is within the typical range of retail prices for the goods or services. For example, if an organization provides a book in exchange for a $100 payment, and the book is sold at retail prices ranging from $18 to $25, the taxpayer may rely on any estimate of the organization that is within the $18 to $25 range.

Substantiation of Contributions to a Split Interest Trust

Section 170(f)(8)(E) provides the Secretary with authority to issue regulations that relieve taxpayers, in appropriate cases, from some or all of the requirements of section 170(f)(8).

The grantor of a charitable lead trust, a charitable remainder annuity trust, or a charitable remainder unitrust is not required to designate a specific organization as the charitable beneficiary at the time the grantor transfers property to the trust. As a result, there is often no designated donee organization available to provide a contemporaneous written acknowledgment to a taxpayer. In addition, even if a specific beneficiary is designated, the designation is often revocable. In contrast, a pooled income fund is created and maintained by one charitable organization to which the remainder interest is contributed.

The IRS and the Treasury Department believe that for these reasons it is appropriate to exempt from the requirements of section 170(f)(8) transfers of property to charitable lead trusts, charitable remainder annuity trusts, or charitable remainder unitrusts while not exempting transfers to pooled income funds.

Substantiation of Out-of-Pocket Expenses

Section 1.170A–1(g) provides that an unreimbursed expenditure made incident to the rendition of services to a donee organization may be a deductible charitable contribution. Some taxpayers may make individual unreimbursed expenditures of $250 or more (such as for a plane ticket) that will require substantiation under section 170(f)(8). The IRS and the Treasury Department recognize that a donee organization typically has no knowledge of the amount of out-of-pocket expenditures incurred by a taxpayer, and therefore, would have difficulty providing taxpayers with substantiation of unreimbursed expenditures.

To address this concern, the proposed regulations provide that where a taxpayer has individual unreimbursed expenditures made incident to the rendition of services and of an amount requiring substantiation, the expenditures may be substantiated by the donor's normal records (see § 1.170A–13(a)) and an abbreviated written acknowledgment provided by the donee organization. This written acknowledgment from the donee organization must contain a description of the services provided by the donor, the date the services were provided, whether or not the donee organization provided any goods or services in return and, if the donee organization provided any goods or services, a description and good faith estimate of the fair market value of those goods or services. This written acknowledgment must be obtained by the taxpayer on or before the earlier of the date the taxpayer files its original return for the taxable year in which the contribution was made, or the due date (including extensions) for filing the taxpayer's original return for that year.

Contributions Made by a Partnership or an S Corporation

The proposed regulations provide that if a partnership or an S corporation makes a charitable contribution of $250 or more, the partnership or S corporation will be treated as the taxpayer for purposes of section 170(f)(8). Therefore, the partnership or S

corporation is required to obtain a contemporaneous written acknowledgment for each charitable contribution of $250 or more that it reports on its income tax return (regardless of whether any partner's or shareholder's distributive share of the contribution is less than $250). Because the partnership or S corporation must satisfy the requirements of section 170(f)(8) in order to list charitable contributions of $250 or more on the schedules provided to its partners or shareholders, the partners and shareholders are not required to obtain any additional contemporaneous written acknowledgments before taking a deduction for their allocable shares of the partnership's or S corporation's charitable contribution.

Contributions Made by Payroll Deduction

These proposed regulations reserve two paragraphs so that the balance of the temporary and proposed regulations published in the **Federal Register** for May 27, 1994, may be incorporated into § 1.170A–13(f) upon finalization.

Proposed Effective Date

These regulations are proposed to be effective on the date they are published in the **Federal Register** as final regulations. Taxpayers may, however, rely on the proposed regulations for contributions made on or after January 1, 1994.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before the proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 1, 1995, at 10:00 a.m. in the IRS Auditorium, 7th floor, 1111 Constitution Avenue, N.W., Washington, D.C. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing is scheduled to begin.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by November 2, 1995 and submit an outline (a signed original and eight copies) of the topics to be discussed and the time to be devoted to each topic by October 11, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Rosemary DeLeone, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding a new entry for section 1.170A–1 and revising the entry for section 1.170A–13 to read as follows:

Authority: 26 U.S.C. 7805. Section 1.170A–1 also issued under 26 U.S.C. 170(a). Section 1.170A–13 also issued under 26 U.S.C. 170(f)(8). * * *

Par. 2. Section 1.170A–1 is amended as follows:

1. Paragraph (h) is redesignated as paragraph (j).
2. Paragraph (i) is redesignated as paragraph (k) and is revised.
3. Paragraph (h) is added.
4. Paragraph (i) is added and reserved.

The additions and revisions read as follows:

§ 1.170A–1 Charitable, etc., contributions and gifts; allowance of deduction.

* * * * *

(h) *Payment in exchange for consideration*—(1) *Burden on taxpayer to show that all or part of payment is a charitable contribution or gift.* No part of a payment that a taxpayer makes to or for the use of an organization described in section 170(c) that is in consideration for goods or services (as defined in § 1.170A–13(f)(5)) is a contribution or gift within the meaning of section 170(c) unless the taxpayer—

(i) Intends to make a payment in an amount that exceeds the fair market value of the goods or services; and

(ii) Makes a payment in an amount that exceeds the fair market value of the goods or services.

(2) *Limitation on amount deductible*—(i) *In general.* The charitable contribution deduction under section 170(a) for a payment a taxpayer makes partly in consideration for goods or services may not exceed the excess of—

(A) The amount of any cash paid and the fair market value of any property (other than cash) transferred by the taxpayer to an organization described in section 170(c); over

(B) The fair market value of the goods or services the organization provides in return.

(ii) *Special rules.* For special limits on the deduction for charitable contributions of ordinary income and capital gain property, see section 170(e) and §§ 1.170A–4 and 1.170A–4A.

(3) *Certain goods or services disregarded.* For purposes of section 170(a) and paragraphs (h)(1) and (h)(2) of this section, goods or services described in § 1.170A–13(f)(8)(i) or § 1.170A- 13(f)(9)(i) are disregarded.

(4) *Donee estimates of the value of goods or services may be treated as fair market value*—(i) *In general.* For purposes of section 170(a), a taxpayer may rely on either a contemporaneous written acknowledgment provided under section 170(f)(8) and § 1.170A–13(f) or a written disclosure statement provided under section 6115 for the fair market value of any goods or services provided to the taxpayer by the donee organization.

(ii) *Exception.* A taxpayer may not treat an estimate of the value of goods or services as their fair market value if the taxpayer knows, or has reason to know, that such treatment is unreasonable. For example, if the taxpayer knows, or has reason to know, that there is an error in an estimate provided by an organization described in section 170(c) pertaining to goods or services that have a readily ascertainable value, it is unreasonable for the taxpayer to treat the estimate as the fair market value of the goods or services. Similarly, if the taxpayer is a

dealer in the type of goods or services provided in consideration for its payment and knows, or has reason to know, that the estimate is in error, it is unreasonable for the taxpayer to treat the estimate as the fair market value of the goods or services.

(5) *Examples.* The following examples illustrate the rules of this paragraph (h).

Example 1. Certain goods or services disregarded. Taxpayer makes a $50 payment to Charity *B*, an organization described in section 170(c), in exchange for a family membership. The family membership entitles Taxpayer and members of Taxpayer's family to certain benefits. These benefits include free admission to weekly poetry readings, discounts on merchandise sold by *B* in its gift shop or by mail order, and invitations to special events for members only, such as lectures or informal receptions. When *B* first offers its membership package for the year, *B* reasonably projects that each special event for members will have a cost to *B*, excluding any allocable overhead, of $5 or less per person. Because the family membership benefits are disregarded pursuant to § 1.170A–13(f)(8)(i), Taxpayer may treat the $50 payment as a contribution or gift within the meaning of section 170(c), regardless of Taxpayer's intent and whether or not the payment exceeds the fair market value of the goods or services. Furthermore, any charitable contribution deduction available to Taxpayer may be calculated without regard to the membership benefits.

Example 2. Treatment of good faith estimate at auction as the fair market value. Taxpayer attends an auction held by Charity *C*, an organization described in section 170(c). Prior to the auction, *C* publishes a catalog that meets the requirements for a written disclosure statement under section 6115(a) (including *C*'s good faith estimate of the value of items that will be available for bidding). A representative of *C* gives a copy of the catalog to each individual (including Taxpayer) who attends the auction. Taxpayer notes that in the catalog *C*'s estimate of the value of a vase is $100. Taxpayer has no reason to doubt the accuracy of this estimate. Taxpayer successfully bids and pays $500 for the vase. Because Taxpayer knew, prior to making her payment, that the estimate in the catalog was less than the amount of her payment, Taxpayer satisfies the requirement of paragraph (h)(1)(i) of this section. Because Taxpayer makes a payment in an amount that exceeds that estimate, Taxpayer satisfies the requirements of paragraph (h)(1)(ii) of this section. Taxpayer may treat *C*'s estimate of the value of the vase as its fair market value in determining the amount of her charitable contribution deduction.

Example 3. Good faith estimate not in error. Taxpayer makes a $200 payment to Charity *D*, an organization described in section 170(c). In return for Taxpayer's payment, *D* gives Taxpayer a book that Taxpayer could buy at retail prices typically ranging from $18 to $25. *D* provides Taxpayer with a good faith estimate, in a written disclosure statement under section 6115(a), of $20 for the value of the book. Because the estimate is within the range of typical retail prices for the book, the estimate contained in the written disclosure statement is not in error. Although Taxpayer knows that the book is sold for as much as $25, Taxpayer may treat the estimate of $20 as the fair market value of the book in determining the amount of his charitable contribution deduction.

(i) [Reserved]

* * * * *

(k) *Effective date.* In general this section applies to contributions made in taxable years beginning after December 31, 1969. Paragraph (j)(11) of this section, however, applies only to out-of-pocket expenditures made in taxable years beginning after December 31, 1976. In addition, paragraph (h) of this section applies only to payments made on or after the date these regulations are published in the **Federal Register** as final regulations. However, taxpayers may rely on the rules of paragraph (h) of this section for payments made on or after January 1, 1994.

Par. 3. Section 1.170A–13 is amended as follows:

1. Paragraph (e) is added and reserved.

2. Paragraph (f) is added.

The additions read as follows:

§ 1.170A–13 Recordkeeping and return requirements for deductions for charitable contributions.

* * * * *

(e) [Reserved]

(f) *Substantiation of charitable contributions of $250 or more*—(1) *In general.* No deduction is allowed under section 170(a) for all or part of any contribution of $250 or more unless the taxpayer substantiates the contribution with a contemporaneous written acknowledgment from a donee organization. Section 170(f)(8) does not apply to a payment of $250 or more if the amount contributed (as determined under § 1.170A–1(h)) is less than $250.

(2) *Written acknowledgment.* Except as otherwise provided in paragraphs (f)(8) and (f)(9) of this section, a written acknowledgment from a donee organization must provide the following information—

(i) The amount of any cash the taxpayer paid and a description (but not necessarily the value) of any property other than cash the taxpayer transferred to the donee organization;

(ii) A statement of whether or not the donee organization provides any goods or services in consideration, in whole or in part, for any of the cash or other property transferred to the donee organization;

(iii) If the donee organization provides any goods or services other than intangible religious benefits (as described in section 170(f)(8)), a description and good faith estimate of the value of those goods or services; and

(iv) If the donee organization provides any intangible religious benefits, a statement to that effect.

(3) *Contemporaneous.* A written acknowledgment is contemporaneous if it is obtained by the taxpayer on or before the earlier of—

(i) The date the taxpayer files its original return for the taxable year in which the contribution was made; or

(ii) The due date (including extensions) for filing the taxpayer's original return for that year.

(4) *Donee organization.* For purposes of this paragraph (f), a donee organization is an organization described in section 170(c).

(5) *Goods or services.* Goods or services means cash, property, services, benefits, and privileges.

(6) *In consideration for.* A donee organization provides goods or services in consideration for a taxpayer's payment if, at the time the taxpayer makes the payment to the donee organization, the taxpayer receives or expects to receive goods or services in exchange for that payment. Goods or services a donee organization provides in consideration for a payment by a taxpayer include goods or services provided in a year other than the year in which the taxpayer makes the payment to the donee organization.

(7) *Good faith estimate.* For purposes of this section, good faith estimate means the donee organization's estimate of the fair market value of any goods or services, without regard to the manner in which the organization in fact made that estimate. See § 1.170A–1(h)(4) for rules regarding when a taxpayer may treat a donee organization's estimate of the value of goods or services as the fair market value.

(8) *Certain goods or services disregarded*—(i) *In general.* For purposes of section 170(f)(8), the following goods or services are disregarded—

(A) Goods or services that have insubstantial value under the guidelines provided in Revenue Procedures 90–12, 1990–1 C.B. 471, 92–49, 1992–1 C.B. 987, and any successor documents. (See § 601.601(d)(2)(ii) of the Statement of Procedural Rules, 26 CFR part 601.); and

(B) Annual membership benefits offered to a taxpayer for a payment of $75 or less per year that consist of—

(*1*) Any rights or privileges, other than those described in section 170(l), that the taxpayer can exercise frequently during the membership period. Examples of such rights and privileges include, but are not limited to, free or

discounted admission to the organization's facilities or events, free or discounted parking, preferred access to goods or services, and discounts on the purchase of goods or services; and

(*2*) Admission to events during the membership period that are open only to members of the donee organization and for which the donee organization reasonably projects that the cost per person (excluding any allocable overhead) for each such event is within the limits established for ''low cost articles'' under section 513(h)(2). The projected cost to the donee organization is determined at the time the organization first offers its membership package for the year (using section 3.07 of Revenue Procedure 90–12, or any successor documents, to determine the cost if items or services are donated).

(ii) *Examples.* The following examples illustrate the rules of this paragraph (f)(8).

Example 1. Membership benefits disregarded. Performing Arts Center *E* is an organization described in section 170(c). In return for a payment of $75, *E* offers a package of basic membership benefits that includes the right to purchase tickets to performances one week before they go on sale to the general public, free parking in *E*'s garage during evening and weekend performances, and a 10% discount on merchandise sold in *E*'s gift shop. In return for a payment of $150, *E* offers a package of preferred membership benefits that includes all of the benefits in the $75 package as well as a poster that is sold in *E*'s gift shop for $20. The basic membership and the preferred membership are each valid for twelve months, and there are approximately 50 performances of various productions at *E* during a twelve month period. *E*'s gift shop is open for several hours each week and at performance times. *F*, a patron of the arts, is solicited by *E* to make a contribution. *E* offers *F* the preferred membership benefits in return for a payment of $150 or more. *F* makes a payment of $300 to *E*. *F* can satisfy the substantiation requirement of section 170(f)(8) by obtaining a contemporaneous written acknowledgment from *E* that includes a description of the poster and a good faith estimate of its fair market value ($20) and disregards the remaining membership benefits.

Example 2. Rights or privileges that cannot be exercised frequently. Community Theater Group *G* is an organization described in section 170(c). Every summer, *G* performs four different plays. Each play is performed two times. In return for a membership fee of $60, *G* offers its members free admission to any of its performances. Non-members may purchase tickets on a performance by performance basis for $15 a ticket. *H*, an individual who is a sponsor of the theater, is solicited by *G* to make a contribution. *G* tells *H* that the membership benefit will be provided in return for any payment of $60 or more. *H* chooses to make a payment of $350 to *G* and receives in return the membership benefit. *G*'s membership benefit of free admission is not described in paragraph (f)(8)(i)(B) of this section because it is not a privilege that can be exercised frequently (due to the limited number of performances offered by *G*). Therefore, to meet the requirements of section 170(f)(8), a contemporaneous written acknowledgment of *H*'s $350 payment must include a description of the free admission benefit and a good faith estimate of its value.

(9) *Goods or services provided to employees of donors*—(i) *Certain goods or services disregarded.* For purposes of section 170(f)(8), goods or services provided by a donee organization to a taxpayer's employees in return for a payment to the organization may be disregarded to the extent that the goods or services provided to each employee are the same as those described in paragraph (f)(8)(i) of this section.

(ii) *No good faith estimate required for other goods or services.* If a taxpayer makes a contribution of $250 or more to a donee organization and, in return, the donee organization offers the taxpayer's employees goods or services other than those described in paragraph (f)(9)(i) of this section, the contemporaneous written acknowledgment of the taxpayer's contribution is not required to include a good faith estimate of the value of such goods or services but must include a description of those goods or services.

(iii) *Example.* The following example illustrates the rules of this paragraph (f)(9).

Example. Museum *J* is an organization described in section 170(c). For a payment of $40, *J* offers a package of basic membership benefits that includes free admission and a 10% discount on merchandise sold in *J*'s gift shop. *J*'s other membership categories are for supporters who contribute $100 or more. Corporation *K* makes a payment of $50,000 to *J* and in return, *J* offers *K*'s employees free admission, a tee-shirt with *J*'s logo that costs *J* $4.50, and a gift shop discount of 25%. The free admission for *K*'s employees is the same as the benefit made available to holders of the $40 membership and is otherwise described in paragraph (f)(8)(i)(B) of this section. The tee-shirt given to each of *K*'s employees is described in paragraph (f)(8)(i)(A) of this section. Therefore, a contemporaneous written acknowledgment of *K*'s payment is not required to include a description or good faith estimate of the value of the free admission or the tee-shirts. However, because the gift shop discount offered to *K*'s employees is different than that offered to those who purchase the $40 membership, the discount is not described in paragraph (f)(8)(i) of this section. Therefore, the contemporaneous written acknowledgment of *K*'s payment is required to include a description of the 25% discount offered to *K*'s employees.

(10) *Substantiation of out-of-pocket expenses.* A taxpayer that incurs unreimbursed expenditures incident to the rendition of services, within the meaning of § 1.170A–1(g), is treated as having obtained a contemporaneous written acknowledgment of those expenditures if the taxpayer—

(i) Has adequate records under paragraph (a) of this section to substantiate the amount of the expenditures; and

(ii) Obtains by the date prescribed in paragraph (f)(3) of this section a statement prepared by the donee organization containing—

(A) A description of the services provided by the taxpayer;

(B) The date the services were provided;

(C) A statement of whether or not the donee organization provides any goods or services in consideration, in whole or in part, for the unreimbursed expenditures; and

(D) The information required by paragraphs (f)(2)(iii) and (iv) of this section.

(11) *Contributions made by payroll deduction.* [Reserved]

(12) *Distributing organizations as donees.* [Reserved]

(13) *Transfers to certain trusts.* Section 170(f)(8) does not apply to a transfer of property to a trust described in section 170(f)(2)(B), a charitable remainder annuity trust (as defined in section 664(d)(1)), or a charitable remainder unitrust (as defined in section 664(d)(2)). Section 170(f)(8) does apply, however, to a transfer to a pooled income fund (as defined in section 642(c)(5)).

(14) *Substantiation of charitable contributions made by a partnership or an S corporation.* If a partnership or an S corporation makes a charitable contribution of $250 or more, the partnership or S corporation will be treated as the taxpayer for purposes of section 170(f)(8). Therefore, the partnership or S corporation must substantiate the contribution with a contemporaneous written acknowledgment from the donee organization before reporting the contribution on its income tax return for the year in which the contribution was made and must maintain the contemporaneous written acknowledgment in its records. A partner of a partnership or a shareholder of an S corporation is not required to obtain any additional substantiation for his or her share of the partnership's or S corporation's charitable contribution.

(15) *Substantiation of matched payments*—(i) *In general.* For purposes of section 170, if a taxpayer's payment to a donee organization is matched, in whole or in part, by another payor, and

the taxpayer receives goods or services in consideration for its payment and some or all of the matching payment, those goods or services will be treated as provided in consideration for the taxpayer's payment and not in consideration for the matching payment.

(ii) *Example.* The following example illustrates the rules of this paragraph (f)(15).

Example. Taxpayer makes a $400 payment to Charity *L*, a donee organization. Pursuant to a matching payment plan, Taxpayer's employer matches Taxpayer's $400 payment with an additional payment of $400. In consideration for the combined payments of $800, *L* gives Taxpayer an item that it estimates has a fair market value of $100. *L* does not give the employer any goods or services in consideration for its contribution. The contemporaneous written acknowledgment provided to the employer must include a statement that no goods or services were provided in consideration for the employer's $400 payment. The contemporaneous written acknowledgment provided to Taxpayer must include the amount of Taxpayer's payment, a description of the item received by Taxpayer, and a statement that *L*'s good faith estimate of the value of the item received by Taxpayer is $100.

(16) *Effective date.* This paragraph (f) applies to contributions made on or after the date that these regulations are published in the **Federal Register** as final regulations. However, taxpayers may rely on the rules of this paragraph (f) for contributions made on or after January 1, 1994.

Par. 4. Section 1.6115–1 is added under the undesignated centerheading ''Miscellaneous Provisions'' to read as follows:

§ 1.6115–1 Disclosure requirements for quid pro quo contributions.

(a) *Good faith estimate defined*—(1) *In general.* A good faith estimate of the value of goods or services provided by an organization described in section 170(c) in consideration for a taxpayer's payment to that organization is an estimate of the fair market value, within the meaning of § 1.170A–1(c)(2), of the goods or services. The organization may use any reasonable methodology in making a good faith estimate, provided it applies the methodology in good faith. If the organization fails to apply the methodology in good faith, the organization will be treated as not having met the requirements of section 6115. See section 6714 for the penalties that apply for failure to meet the requirements of section 6115.

(2) *Good faith estimate for goods or services that are not commercially available.* A good faith estimate of the value of goods or services that are not generally available in a commercial transaction may be determined by reference to the fair market value of similar or comparable goods or services. Goods or services may be similar or comparable even though they do not have the unique qualities of the goods or services that are being valued.

(3) *Examples.* The following examples illustrate the rules of this paragraph (a).

Example 1. Facility not available on a commercial basis. Museum *M*, an organization described in section 170(c), is located in Community *N*. In return for a payment of $50,000 or more, *M* allows a donor to hold a private event in a room located in *M*. No other private events are permitted to be held in *M*. In Community *N*, there are four hotels, *O, P, Q,* and *R*, that have ballrooms with the same capacity as the room in *M*. Of these hotels, only *O* and *P* have ballrooms that offer amenities and atmosphere that are similar to the amenities and atmosphere of the room in *M* (although *O* and *P* lack the unique collection of art that is displayed in the room of *M*). Because the capacity, amenities, and atmosphere of ballrooms in *O* and *P* are comparable to the capacity, amenities, and atmosphere of the room in *M*, a good faith estimate of the benefits received from *M* may be determined by reference to the cost of renting either the ballroom in *O* or the ballroom in *P*. The cost of renting the ballroom in *O* is $2500 and, therefore, a good faith estimate of the fair market value of the right to host a private event in the room at *M* is $2500. In this example, the ballrooms in *O* and *P* are considered similar and comparable facilities to the room in *M* for valuation purposes, notwithstanding the fact that the room in *M* displays a unique collection of art.

Example 2. Services available on a commercial basis. Charity *S* is an organization described in section 170(c). *S* offers to provide a one-hour tennis lesson with Tennis Professional *T* in return for the first payment of $500 or more that it receives. *T* provides one-hour tennis lessons on a commercial basis for $100. Taxpayer pays $500 to *S* and in return receives the tennis lesson with *T*. A good faith estimate of the fair market value of the lesson provided in exchange for Taxpayer's payment is $100.

Example 3. Celebrity presence. Charity *U* is an organization described in section 170(c). In return for the first payment of $1000 or more that it receives, *U* will provide a dinner for two followed by an evening tour of Museum *V* conducted by Artist *W*, whose most recent works are on display at *V*. *W* does not provide tours of *V* on a commercial basis. Typically, tours of *V* are free to the public. Taxpayer pays $1000 to *U* and in return receives a dinner valued at $100 and an evening tour of *V* conducted by *W*. Because tours of *V* are typically free to the public, a good faith estimate of the value of the evening tour conducted by *W* is $0. In this example, the fact that Taxpayer's tour of *V* is conducted by *W* rather than *V*'s regular tour guides does not render the tours dissimilar or incomparable for valuation purposes.

(b) *Certain goods or services disregarded.* For purposes of section 6115, an organization described in section 170(c) may disregard goods or services described in § 1.170A–13(f)(8)(i).

(c) *Goods or services provided to employees of donors*—

(1) *Certain goods or services disregarded.* For purposes of section 6115, goods or services provided by an organization described in section 170(c) to a taxpayer's employees in return for a payment to the organization may be disregarded to the extent that the goods or services provided to each employee are the same as those described in § 1.170A–13(f)(8)(i).

(2) *Description permitted in lieu of good faith estimate for other goods or services.* If a taxpayer makes a quid pro quo contribution in excess of $75 to an organization described in section 170(c) and, in return, the organization offers the taxpayer's employees goods or services other than those described in paragraph (c)(1) of this section, the organization's written disclosure statement required by section 6115 may include a description of the goods or services in lieu of a good faith estimate of the value of the goods or services, provided that the statement otherwise satisfies the requirements of section 6115.

(d) *Effective date.* This section applies to contributions made on or after the date that these regulations are published in the **Federal Register** as final regulations. However, taxpayers may rely on the rules of this section for contributions made on or after January 1, 1994.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–19063 Filed 8–3–95; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 1

[IL–65–93]

RIN 1545–AS46

Exceptions to Passive Income Characterization for Certain Foreign Banks and Securities Dealers; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date for public hearing on proposed regulations.

SUMMARY: This document changes the date of the public hearing on proposed regulations concerning the application of the exceptions to passive income contained in section 1296(b) for foreign banks, securities dealers and brokers.

DATES: The public hearing is changed to Monday, September 11, 1995, beginning at 10:00 a.m.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Submit requests to speak and outlines of oral comments to the CC:DOM:CORP:T:R [IL–65–93], room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–6803 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Friday, April 28, 1995 (60 FR 20922), announced that the Service would hold a public hearing on proposed regulations concerning the application of the exceptions to passive income contained in section 1296(b) for foreign banks, securities dealers and brokers on Thursday, August 31, 1995, beginning at 10:00 a.m. in the IRS Auditorium.

The date of the public hearing has changed. The hearing is scheduled for Monday, September 11, 1995, beginning at 10:00 a.m. The requests to speak and outlines of oral comments must be received by Thursday, August 10, 1995. Because of controlled access restrictions, attenders are not admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

The Service will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

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

[FR Doc. 95–19297 Filed 8–3–95; 8:45 am]

BILLING CODE 4830–01–P

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26 CFR Part 301

[PS–54–94]

RIN 1545–AT02

Environmental Settlement Funds—Classification

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations relating to the classification of certain organizations as trusts for federal tax purposes. The proposed regulations would provide guidance to taxpayers on the proper classification of trusts formed to collect and disburse amounts for environmental remediation of an existing waste site to discharge taxpayers' liability or potential liability under applicable environmental laws.

DATES: Written comments must be received by October 5, 1995. Requests to speak (with outlines of oral comments) at a public hearing scheduled for October 26, 1995, at 10 a.m. must be submitted by October 5, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (PS–54–94), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (PS–54–94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. The public hearing has been scheduled to be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, James A. Quinn, (202) 622–3060; concerning submissions and the hearing, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224.

The collection of information is required by § 301.7701–4(e)(2). This information is required by the IRS to ensure the proper reporting of items of income and expense of an environmental remediation trust in which a portion of the trust is treated as owned by a grantor. This information will be used to ensure compliance with the proposed regulation. The likely respondents are businesses and other for-profit institutions, including small businesses.

Estimated total annual reporting burden: 2,000 hours.

The estimated annual burden per respondent: 4 hours.

Estimated number of respondents: 500.

Estimated annual frequency of responses: 1.

Introduction

This document proposes to add § 301.7701–4(e) to the Procedure and Administration Regulations (26 CFR Part 301) relating to the classification of certain environmental remediation trusts as trusts for federal tax purposes.

Background

Unincorporated organizations may be classified as associations (which are taxable as corporations), partnerships, or trusts for federal tax purposes. The criteria for determining when an organization will be classified as a trust are set forth in § 301.7701–4. The proposed amendment to § 301.7701–4 provides that an environmental remediation trust will be classified as a trust for federal tax purposes.

A trust is an environmental remediation trust if (1) the primary purpose of the trust is collecting and disbursing amounts for environmental remediation of an existing waste site to resolve, satisfy, mitigate, address, or prevent the liability or potential liability of persons imposed by federal, state, or local environmental laws; (2) all contributors to the trust have potential liability or a reasonable expectation of liability under federal, state, or local environmental laws for environmental remediation of the waste site; and (3) the trust is not a qualified settlement fund within the meaning of § 1.468B–1(a). Environmental remediation trusts include trusts formed pursuant to an order of a governmental authority, as well as trusts formed by taxpayers to avoid future liability or potential liability under federal, state, or local environmental laws. An environmental remediation trust is classified as a trust, even though it may differ from the traditional trust in which trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts, because the purpose of an environmental remediation trust is to pay the costs of environmental remediation of an existing waste site as a result of liability or potential liability under federal, state, or local environmental laws, not to carry on a for-profit business.

The proposed regulations provide that each contributor to the trust will be treated as the owner of the portion of the trust contributed by that person, and, therefore, the trust is treated as a grantor trust under subpart E of subchapter J. The proposed regulations also require the trustee to provide information to the participants that will enable them to properly report their share of income, deductions, and credits, including information to properly determine whether a payment satisfies the economic performance rules of section 461(h).

The proposed regulations provide certain rules relating to participants (cash-out grantors) that contribute a fixed amount to the trust and are relieved from making further contributions to the trust, even though the participant still is liable or potentially liable under applicable environmental laws. Under the proposed regulations, all amounts contributed to an environmental remediation trust by a cash-out grantor are considered amounts contributed for remediation. In addition, the trust agreement may direct the trustee to expend amounts contributed by a cash-out grantor (and the earnings thereon) before expending amounts contributed by other grantors (and the earnings thereon). The proposed regulations also provide that a cash-out grantor will cease to be treated as an owner of a portion of the trust when the grantor's portion is treated as fully expended.

Effective Date

The regulations are proposed to apply to trusts that meet the requirements of paragraph (e)(1) of the regulations that are formed on or after the date of publication of these proposed regulations as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 26, 1995, at 10:00 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by October 5, 1995, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 5, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information. The principal author of these regulations is James A. Quinn of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Par. 2. Section 301.7701–4(e) is added to read as follows:

§ 301.7701–4 Trusts.

* * * * *

(e) *Environmental remediation trusts.* (1) An environmental remediation trust is considered a trust for purposes of the Internal Revenue Code. For purposes of this paragraph (e), an organization is an environmental remediation trust if the organization is organized under state law as a trust; the primary purpose of the trust is collecting and disbursing amounts for environmental remediation of an existing waste site to resolve, satisfy, mitigate, address, or prevent the liability or potential liability of persons imposed by federal, state, or local environmental laws; all contributors to the trust have potential liability or a reasonable expectation of liability under federal, state, or local environmental laws for environmental remediation of the waste site; and the trust is not a qualified settlement fund within the meaning of § 1.468B–1(a) of this chapter. An environmental remediation trust is classified as a trust because its primary purpose is environmental remediation of a waste site and not the carrying on of a profit-making business which normally would be conducted through business organizations classified as corporations or partnerships. However, if the remedial purpose is altered or becomes so obscured by business or investment activities that the declared remedial purpose is no longer controlling, the organization will no longer be classified as a trust. For purposes of this paragraph (e), environmental remediation includes the costs of assessing environmental conditions, remediating environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, and collecting amounts from persons liable or potentially liable for the costs of these activities. For purposes of this paragraph (e), persons have potential liability or a reasonable expectation of liability under federal, state, or local environmental laws for environmental remediation of the waste site if there is authority under a federal, state, or local law that requires such persons to satisfy all or a portion of the costs of the environmental remediation.

(2) Each contributor (grantor) to the trust will be treated as the owner of the portion of the trust contributed by that grantor. See section 677 and § 1.677(a)–1(d) of this chapter for rules regarding the treatment of a grantor as the owner of a portion of a trust applied in discharge of the grantor's legal obligation. Items of income, deduction, and credit attributable to any portion of an environmental remediation trust treated as owned by the grantor should not be reported by the trust on Form 1041, but should be shown on a separate statement to be attached to that form.

See § 1.671–4(a) of this chapter. The trustee must also furnish to each grantor a statement that shows all items of income, deduction, and credit of the trust for the taxable year attributable to the portion of the trust treated as owned by the grantor. The statement must provide the grantor with the information necessary to take the items into account in computing the grantor's taxable income, including information necessary to properly take into account items under the economic performance rules of section 461(h) and the regulations thereunder. See § 1.461–4 of this chapter for rules relating to economic performance.

(3) All amounts contributed to an environmental remediation trust by a grantor (cash-out grantor) who, pursuant to an agreement with the other grantors, contributes a fixed amount to the trust and is relieved of any further obligation to make contributions to the trust, but remains liable or potentially liable under the applicable environmental laws, will be considered amounts contributed for remediation. An environmental remediation trust agreement may direct the trustee to expend amounts contributed by a cash-out grantor (and the earnings thereon) before expending amounts contributed by other grantors (and the earnings thereon). A cash-out grantor will cease to be treated as an owner of a portion of the trust when the grantor's portion is fully expended by the trust.

(4) The provisions of this paragraph (e) may be illustrated by the following example:

Example. (a) *X*, *Y*, and *Z* are calendar year corporations that are liable for the remediation of an existing waste site under applicable federal environmental laws. On June 1, 1996, pursuant to an agreement with the governing federal agency, *X*, *Y*, and *Z* create an environmental remediation trust within the meaning of paragraph (e)(1) to collect funds contributed to the trust by *X*, *Y*, and *Z* and to carry out the remediation of the waste site to the satisfaction of the federal agency. *X*, *Y*, and *Z* are jointly and severally liable under the federal environmental laws for the remediation of the waste site, and the federal agency will not release *X*, *Y*, or *Z* from liability until the waste site is remediated to the satisfaction of the agency.

(b) The estimated cost of the remediation is $20,000,000. *X*, *Y*, and *Z* agree that, if *Z* contributes $1,000,000 to the trust, *Z* will not be required to make any additional contributions to the trust, and *X* and *Y* will complete the remediation of the waste site and make additional contributions if necessary.

(c) On June 1, 1996, *X*, *Y*, and *Z* each contribute $1,000,000 to the trust. The trust agreement directs the trustee to spend *Z*'s contributions to the trust and the income allocable to *Z*'s portion before spending *X*'s and *Y*'s portions. On November 30, 1996, the trustee pays $2,000,000 for remediation work performed from June 1, 1996, through September 30, 1996. As of November 30, 1996, the trust had $75,000 of interest income, which is allocated in equal shares of $25,000 to *X*, *Y*, and *Z*'s portions of the trust.

(d) Pursuant to the agreement between *X*, *Y*, and *Z*, *Z* made no further contributions to the trust. Pursuant to the trust agreement, the trustee expended *Z*'s portion of the trust before expending *X*'s and *Y*'s portion. Therefore, *Z*'s share of the remediation payment made in 1996 is $1,025,000 ($1,000,000 contribution by *Z* plus $25,000 of income allocated to *Z*'s portion of the trust). *Z* must take the $1,025,000 payment into account under the appropriate federal tax accounting rules. In addition, *X*'s share of the remediation payment made in 1996 is $487,500, and *Y*'s share of the remediation payment made in 1996 is $487,500. *X* and *Y* must take their respective shares of the payment into account under the appropriate federal tax accounting rules.

(e) The trustee made no further remediation payments in 1996, and *X* and *Y* made no further contributions in 1996. From December 1, 1996, to December 31, 1996, the trust had $5,000 of interest income, which is allocated $2,500 to *X*'s portion and $2,500 to *Y*'s portion. Accordingly, for 1996, *X* and *Y* each had income of $27,500 from the trust.

(5) This paragraph (e) is applicable to trusts meeting the requirements of paragraph (e)(1) of this section that are formed on or after the date of publication of these proposed regulations as final regulations in the **Federal Register**.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–19286 Filed 8–3–95; 8:45 am]

BILLING CODE 4830–01–U

ASSASSINATION RECORDS REVIEW BOARD

36 CFR Part 1415

Rules Implementing the Privacy Act

AGENCY: Assassination Records Review Board.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Each Federal agency is required by the Privacy Act of 1974 to promulgate rules that set forth procedures by which individuals can examine and request correction of agency records containing personal information. In this notice the Review Board proposes a rule to satisfy that requirement.

DATES: To be considered, comments must be mailed, delivered in person or faxed to the address listed below by 5 p.m. on September 5, 1995.

ADDRESSES: Comments on these proposed regulations should be mailed, faxed, or delivered to T. Jeremy Gunn, Acting General Counsel, Assassination Records Review Board, 600 E Street NW., 2nd Floor, Washington, DC 20530, FAX (202) 724–0457 (Attention: Privacy Act NPRM). All comments will be placed in the Board's public files and will be available for inspection between 10 a.m. and 4:30 p.m., Mondays through Fridays (except legal holidays), in the Board's Public Reading Room at the same address.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, Acting General Counsel, Assassination Records Review Board, 600 E Street NW., 2nd Floor, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Section(f) of the Privacy Act of 1974, U.S.C. 552a(f), requires each Federal agency to promulgate rules that set forth procedures by which individuals can examine and request correction of agency records containing personal information. The Review Board, established by the President John F. Kennedy Assassination Records Collection Act of 1992, is therefore obligated to publish such regulations.

Because Privacy Act regulations are intended for use by the general public, the Review Board has tried to keep its proposed rule simple and straightforward. Some aspects of the Privacy Act dealing solely with the Review Board's internal procedures and safeguards may be dealt with by directive to the Review Board's staff rather than by rule.

Paperwork Reduction Act Statement

The proposed rule is not subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) because it does not contain any information collection requirements within the meaning of 44 U.S.C. 3502(4).

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–12, the Review Board certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities and that, therefore, a regulatory flexibility analysis need not be prepared, 5 U.S.C. 605(b).

List of Subjects in 36 CFR Part 1415

Privacy Act.

The Proposed Regulations

Accordingly, the Review Board proposes to amend chapter XIV in title 36 of the Code of Federal Regulations by

adding a new part 1415 to read as follows:

PART 1415—RULES IMPLEMENTING THE PRIVACY ACT

Sec.
1415.5 Scope.
1415.10 Definitions.
1415.15 Systems of records notification.
1415.20 Requests by persons for access to their own records.
1415.25 Processing of requests.
1415.30 Appeals from access denials.
1415.35 Requests for correction of records.
1415.40 Appeals from correction denials.
1415.45 Disclosure of records to third parties.
1415.50 Fees.
1415.55 Exemptions.

Authority: 5 U.S.C. 552a; 44 U.S.C. 2107.

§ 1415.5 Scope.

This part contains the Review Board's regulations implementing the Privacy Act of 1974, 5 U.S.C. 552a.

§ 1415.10 Definitions.

In addition to the definitions provided in the Privacy Act, the following terms are defined as follows:

Assassination records for the purpose of this regulation means records created by Government offices, entities, and individuals that relate to the assassination of President John F. Kennedy as defined in 36 CFR part 1400 that may, from time to time, come into the temporary custody of the Review Board but that are not the legal property of the Review Board.

Executive Director means the principal staff official appointed by the Review Board pursuant to 44 U.S.C. 2107.8(a).

General Counsel means the Review Board's principal legal officer, or an attorney serving as Acting General Counsel.

JFK Act means the President John F. Kennedy Records Collection Act of 1992.

Review Board means the Assassination Records Review Board created pursuant to 44 U.S.C. 2107.7.

System of records means a group of records that is within the possession and control of the Review Board and from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The system of records does not include assassination records as defined above.

§ 1415.15 Systems of records notification.

(a) *Public notice.* The Review Board will publish in the **Federal Register** its system of records. The Office of the Federal Register biannually compiles and publishes all systems of records maintained by Federal agencies, including the Review Board.

(b) *Requests regarding record systems.* Any person who wishes to know whether a system of records contains a record pertaining to him or her may file a request in person or in writing. Written requests should be directed to the General Counsel, Assassination Records Review Board, 600 E Street, NW., Washington, DC 20530. Telephone requests should be made by calling the Review Board at (202) 724–0088, and asking to speak to the General Counsel.

§ 1415.20 Requests by person for access to their own records.

(a) *Requests in writing.* A person may request access to his or her own records in writing by addressing a letter to the General Counsel, Assassination Records Review Board, 600 E Street, NW., 2nd Floor, Washington, DC 20530. The request should contain the following information:

(1) Full name, address, and telephone number of requester;

(2) Proof of identification, which should be a copy of one of the following: Valid driver's license, valid passport, or other current identification which contains both an address and picture of the requester;

(3) The system of records in which the desired information is contained; and

(4) At the requester's option, authorization for expenses (see § 1415.50 below).

(b) *Requests in person.* Any person may examine his or her own record on the Review Board's premises. To do so, the person should call the Review Board's offices at (202) 724–0088 and ask to speak to the General Counsel. This call should be made at least two weeks prior to the time the requester would like to see the records. During this call, the requester should be prepared to provide the same information as that listed in paragraph (a) of this section except for proof of identification.

§ 1415.25 Processing of requests.

(a) *Requests in writing.* The General Counsel will acknowledge receipt of the request within five working days of its receipt in the Review Board's offices. The acknowledgment will advise the requester if any additional information is needed to process the request. Within fifteen working days of receipt of the request, the General Counsel will provide the requester an explanation as to why additional time, if any, is needed for response.

(b) *Requests in person.* Following the initial call from the requester, the General Counsel will determine: Whether the records identified by the requester exist, and whether they are subject to any exemption under § 1415.55 below. If the records exist and are not subject to exemption, the General Counsel will call the requester and arrange an appointment at a mutually agreeable time when the records can be examined. The requester may be accompanied by one person of his or her own choosing, and should state during this call whether or not a second individual will be present at the appointment. At the appointment, the requester will be asked to present identification as stated in § 1415.20(a)(2).

(c) *Excluded information.* If a request is received for information compiled in reasonable anticipation of litigation, the General Counsel will inform the requester that this information is not subject to release under the Privacy Act (see 5 U.S.C. 552a(d)(5)).

§ 1415.30 Appeals from access denials.

When access to records has been denied by the General Counsel, the requester may file an appeal in writing. This appeal should be directed to the Executive Director, Assassination Records Review Board, 600 E Street, NW., 2nd Floor, Washington, DC 20530. The appeal letter must: Specify those denied records which are still sought, and state why the denial by the General Counsel is erroneous. The Executive Director or his representative will respond to such appeals within twenty business days after the appeal letter is received in the Review Board's offices. The appeal determination will explain the basis for continuing to deny access to any requested records.

§ 1415.35 Requests for correction of records.

(a) *Correction requests.* Any person is entitled to request correction of a record pertaining to him or her. This request must be made in writing and should be addressed to the General Counsel, Assassination Records Review Board, 600 E Street, NW., 2nd Floor, Washington, DC 20530. The letter should clearly identify the corrections desired. An edited copy will usually be acceptable for this purpose.

(b) *Initial response.* Receipt of a correction request will be acknowledged by the General Counsel in writing five working days of receipt of the request. The General Counsel will endeavor to provide a letter to the requester within thirty working days stating whether or not the request for correction has been granted or denied. If the General Counsel decides to deny any portion of

the correction request, the reasons for the denial will be provided to the requester.

§ 1415.40 Appeals from correction denials.

(a) When amendment of records has been denied by the General Counsel, the requester may file an appeal in writing. This appeal should be directed to the Executive Director, Assassination Records Review Board, 600 E Street, NW., 2nd Floor, Washington, DC 20530. The appeal letter must specify the record subject to the appeal, and state why the denial of amendment by the General Counsel is erroneous. The Executive Director or his representative will respond to such appeals within thirty working days (subject to extension by the Executive Director for good cause) after the appeal letter has been received in the Review Board's offices.

(b) The appeal determination, if adverse to the requester in any respect, will:

(1) Explain the basis for denying amendment of the specified records;

(2) Inform the requester that he or she may file a concise statement setting forth reasons for disagreeing with the Executive Director's determination; and

(3) Inform the requester of his or her right to pursue a judicial remedy under 5 U.S.C. 552a(g)(1)(A).

§ 1415.45 Disclosure of records to third parties.

Records subject to the Privacy Act that are requested by a person other than the individual to whom they pertain will not be made available except in the following circumstances:

(a) Release is required under the Freedom of Information Act in accordance with the Review Board's FOLA regulations, 36 CFR part 1410;

(b) Prior consent for disclosure is obtained in writing from the individual to whom the records pertain; or

(c) Release is authorized by 5 U.S.C. 552a(b) (1) or (3) through (11).

§ 1415.50 Fees.

A fee will not be charged for search or review of requested records, or for correction of records. When a request is made for copies of records, a copying fee will be charged at the same rate established for FOLA requests. *See* 36 CFR 1410.35 However, the first 100 pages will be free of charge.

§ 1415.55 Exemptions.

The following records are exempt from disclosure under this regulation:

(a) Review Board records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and that are in fact properly classified pursuant to such Executive Order;

(b) Review Board records related solely to the internal personnel rules and practices of the Review Board;

(c) Review Board records specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Review Board

Dated: July 31, 1995.

David G. Marwell,

Executive Director, Assassination Records Review Board.

[FR Doc. 95–19173 Filed 8–3–95; 8:45 am]

BILLING CODE 6820–TD–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA–17–1–6983; FRL–5273–2]

Approval and Promulgation of Implementation Plans and Delegation of 112(l) Authority; State of Iowa

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 Iowa for the purpose of establishing a voluntary operating permit program. This program provides sources an alternative to the Clean Air Act (CAA) Title V program.

This action also proposes to establish a mechanism for creating Federally enforceable limitations under section 112(l). This authorizes Iowa to issue Federally enforceable operating permits that address both criteria pollutants (regulated under section 110 of the CAA) and hazardous air pollutants (HAP) (regulated under section 112).

DATES: Comments on this proposed rule must be received in writing by September 5, 1995.

ADDRESSES: Comments may be mailed to Christopher D. Hess, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: On December 8, 1994, the Director of the Iowa Department of Natural Resources (IDNR) submitted a request to revise the Iowa State Implementation Plan (SIP). The EPA sent a letter of completeness to the state on December 22, 1994.

I. Purpose of the Revision

The state has created new regulations in Iowa Administrative Code 567–22.200–208 to create a voluntary operating permit program. This program has been specifically designed to provide an alternative to Title V operating permits for eligible sources throughout the state.

In accordance with 40 CFR part 70, air pollution sources defined as ''major'' or otherwise subject to the part 70 regulations are required to obtain and adhere to the conditions of a Title V permit. These Title V permits contain numerous requirements as well as a fee on all emissions up to 4,000 tons per year (TPY).

In Federal terminology, sources with potential and actual emissions under the thresholds of major (e.g., less than 100 tons per year of a regulated air pollutant) are considered minor sources. Sources which limit and restrict their potential and actual emissions to levels below the major level are referred to as ''synthetic minors,'' because these sources would not be minor sources without accepting certain limitations to thus be eligible as minor sources.

This voluntary operating permit program proposed by the state of Iowa is designed to enable sources to become minor and thus avoid the administrative requirements and associated fees of a Title V permit.

The term ''voluntary'' is used to describe this program because sources which do not want to limit their operations may continue to operate at or above ''major'' levels. However, this will require a Title V permit. For those sources which voluntarily restrict their operations, this program provides an alternative that is administratively and financially beneficial to sources, and promotes maintenance of air quality standards by reducing emissions of air pollution throughout the state.

II. Criteria for Approval

The terms and conditions of the state's voluntary operating permit program may be considered Federally enforceable if the state's submittal meets the criteria outlined in the **Federal Register** notice dated June 28, 1989 (54 FR 27275). The state's request for approval pursuant to section 112(l) must

also fulfill these criteria. The cited notice describes five criteria.

A. The program is submitted to and approved by EPA into the SIP.

The state correctly submitted this revision to the EPA and subsequently received a letter of completeness. Also, the EPA is proposing approval of this revision into the SIP.

B. The SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits, including revisions, and provide that permits that do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations will be deemed not Federally enforceable.

The state's rules do require terms and conditions to operate; emission limitations and standards that ensure compliance; a certified statement that each emissions unit is in compliance; and monitoring, recordkeeping, and reporting requirements that ensure compliance with the terms and conditions of the permit.

Moreover, pursuant to section 22.206, each permit must contain a statement that the permittee shall comply with all conditions of the permit, and that failure to comply with the permit is grounds for enforcement action. This action may include termination or revocation and immediate requirement to obtain a Title V permit.

The director shall specifically designate as not Federally enforceable any terms and conditions of the permit that are not required under the Act or under any of its applicable requirements.

C. The permit program requires that all emissions limitations, controls, and other requirements will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP. Furthermore, the permit program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise Federally enforceable.

The state rules specifically provide in section 22.206(2)(c) that all emissions limitations, all controls, and all other requirements included in a voluntary permit shall be at least as stringent as any other applicable limitation or requirement in the SIP or enforceable under the SIP. Furthermore, the state rules provide in section 22.206(2)(d) that the director shall not issue a permit that waives any limitation or requirement under the SIP or that is otherwise Federally enforceable.

D. The limitations, controls, and requirements in the permits are permanent, quantifiable, and otherwise enforceable as practical matter. The state rules provide that the limitations, controls, and requirements in a voluntary operating permit shall be permanent, quantifiable, and otherwise enforceable. While the rule does not presently conform to the Federal requirements as set forth in section V, the state has indicated that it will amend this provision.

E. The permits are issued subject to public participation which includes the timely notice of proposal and issuance of these permits. This also includes providing to EPA a copy of each draft and final permit intended to be Federally enforceable. This process must also provide for an opportunity for comment on the permit applications prior to issuance of the final permit.

In rule 22.205(1)b, the state outlines adequate procedures for public participation. These procedures set forth requirements for public notice, including notifying both the public and the Administrator before issuing or renewing a permit. The state will use newspapers with a general circulation, as well as a state publication to provide this notice. The rule requires at least 30 days will be provided for public comment.

In a letter to the EPA dated February 16, 1995, the state has further clarified that it commits to provide EPA with timely notice of proposed and final permits within 60 days of an action by the IDNR.

III. Delegation of 112(l) Authority

In a letter to the EPA dated April 25, 1995, the state of Iowa has also requested approval of the voluntary operating permit program under section 112(l) of the Act. This enables any limitation on potential-to-emit of HAP to be enforceable by EPA. In other words, by incorporating the voluntary operating permit program into the SIP and approving the 112(l) program while requiring that permittees comply with such permits, any violation of such a permit will be enforceable under the Act and will be subject to EPA enforcement.

The criteria for establishing Federally enforceable limitations for criteria pollutants pursuant to section 110 of the Act, are the same criteria the EPA uses in approving state operating permit programs to establish Federally enforceable limitations for HAPs pursuant to section 112 of the Act. As outlined in section II of this notice, the state has satisfied the criteria contained in the June 1989 **Federal Register** notice for creating Federally enforceable limitations on potential to emit.

Moreover, the state must also meet the requirements of section 112(l). In a letter dated March 1, 1995, from Larry Wilson, Director, IDNR, to Dennis Grams, Administrator, EPA Region VII, these requirements have been addressed and met as described in the following paragraphs.

A. Adequate Authority. Section 112(l)(5)(A) of the Act requires adequate authority within the program to ensure compliance with each applicable standard, regulation, or requirement established by the Administrator by all sources in the state. The state's letter of March 1, 1995, cites the state's authority that fulfills this requirement.

B. Adequate Resources. Section 112(l)(5)(B) further requires that adequate resources must be available to implement the program. The state submitted a resource demonstration on November 15, 1993, for the Title V program that also addressed the voluntary permit program. EPA has determined that the state, in that submittal, has demonstrated that adequate resources are available to implement the voluntary permit program. It should be noted, however, that this determination is for the voluntary permit program only. It does not affect EPA's proposed interim approval of the Title V program, or the EPA's finding as to the adequacy of the resources available for implementation of that program.

C. Implementation Schedule. Section 112(l)(5)(C) requires that the state submit an expeditious schedule for implementing the program and ensuring compliance by the affected sources. The state submitted a schedule for implementing section 112 requirements on November 15, 1993, that satisfies this requirement.

D. Ability to Take Enforcement Action. The state's Title V submittal of November 15, 1993, includes an opinion by the Iowa Attorney General that the state has the legal authority to take civil and enforcement action against any source regulated under section 112 of the Act.

Based on the fulfillment of the above criteria, the EPA is therefore proposing approval of the voluntary operating permit program for the control of air toxics that allow sources to limit their potential-to-emit of HAPs.

IV. Additional Program Description

In section II of this notice, the state's rules were only discussed insofar as they generally met the criteria outlined in the cited **Federal Register** notice. In this section, various provisions of the

rules are discussed in order to provide a fuller description of the state's regulations that comprise the voluntary operating permit program.

A. Eligibility. In order to qualify for a voluntary permit, a source must successfully demonstrate that:

1. Potential and actual emissions will be less than 100 tons per year of regulated pollutants per 12-month rolling period;

2. Potential and actual emissions of each HAP will be less than 10 tons per 12-month rolling period;

3. Potential and actual emissions of all HAPs will be less than 25 tons per 12-month rolling period.

In other matters concerning eligibility, subrule 22.201(2) lists exceptions for sources seeking a voluntary operating permit. Although a source may meet the criteria cited in a-c above, any affected source subject to Title IV, those required to obtain a Title V permit as a source category pursuant to 70.3, or a solid waste incinerator unit is not eligible for a voluntary permit.

Additionally, sources subject to a New Source Performance Standard, National Emissions Standards for Hazardous Air Pollutants, or section 112 of the Act are only eligible for a voluntary permit until April 20, 1999. Once the deferment period for these sources has expired, these sources will be required to obtain a Title V permit.

B. No source may operate without a properly issued Title V or voluntary operating permit.

C. Although the rules state that sources must apply by March 1, 1995, the state provided public notice and exercised a subsequent rulemaking to rescind this date. The state now intends to establish a new date once this SIP revision approving the voluntary permit program becomes effective.

D. Standard application information is required of all sources seeking a voluntary permit. The rule specifies that the information must be sufficient to evaluate the source and its predicted and actual emissions.

The permit must also contain identifying information about the owner and a description of source processes and products by two digit Standard Industrial Classification Code. Required information includes listing equipment, monitoring devices, limitations on source operations, and the calculations used by the source in providing this information.

E. Sources with a voluntary operating permit shall be exempt from Title V operating permit fees.

F. A voluntary operating permit may be denied if the director determines any of the following conditions: a source is not in compliance with any applicable requirement; an applicant submits false information; or an applicant is unable to certify compliance with applicable requirements.

If a voluntary permit is denied, the source shall apply for a Title V operating permit and shall be subject to enforcement action for operating without a Title V permit. This fulfills part 70 requirements which require all major sources subject to Title V to receive a corresponding permit. If an otherwise major source in Iowa does not have a valid voluntary permit, it is subject to Title V.

G. If a source's application for and receipt of a construction permit renders the source ineligible for a voluntary permit (e.g., increased emissions above the eligibility threshold), the source must then apply for a Title V permit. Once again, the source is subject to enforcement action for operating without a Title V permit.

The terms and conditions of an issued construction permit shall be incorporated into a voluntary permit at the time of renewal for the voluntary permit, assuming that the construction permit did not render the source ineligible as discussed in the paragraph above. Sources are required to provide copies of all construction permits issued during the term of the voluntary operating permit.

V. Approvability Issues

EPA's analysis of the state's rules has revealed four deficiencies which must be corrected before EPA can give final approval to this SIP revision. The state has agreed to these amendments and has developed revised rules that are expected to be adopted by June 1995. These amendments are as follows.

A. The EPA has previously informed the state of the need to revise the definition of ''12-month rolling period'' in 22.201(1). As currently written, the term in this rule is ambiguous and may not be enforceable as a practical matter. The state has therefore drafted a revised rule that provides the following definition: ''* * * a period of 12 consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.''

B. The second item concerns 22.201(1)a–d. As currently written, the rule is not consistent with the requirements for Prevention of Significant Deterioration or for construction permitting. In response to EPA comments, the state has developed an amendment that declares fugitive emissions of each regulated air pollutant from a stationary source shall not be considered in determining the potential-to-emit unless the source belongs to a source category listed in IAC 567–22. Fugitives must be counted for purposes of 112(l).

C. The EPA has requested that 22.201(2)a be revised to read that sources required to obtain a Title V permit under 22.101(1)e (source categories) are not eligible for a voluntary operating permit. This revision is necessary because the EPA is requiring some non-major section 112 sources to obtain a Title V permit with no deferral provisions.

D. The EPA has advised the state that the provisions of 22.206(2)(c) must be revised to provide that permit limitations, controls, and requirements must be enforceable as a practical matter.

VI. EPA Action

The EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The reader may also request the Technical Support Document (TSD) which examines this revision in more extensive detail. The TSD may be requested in accordance with the information provided in the ''Addresses'' section.

As addressed in section II of this notice, the EPA has determined that this proposed revision meets the five criteria of the June 28, 1989, **Federal Register** notice for Federal enforceability.

In order for the EPA to take final action on this SIP revision, the state must submit revised rules addressing the approvability issues outlined in section V of this notice.

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

Under 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, EPA certifies that it does not have a significant impact on any small entities affected.

Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 112 of the CAA. These rules may bind state, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being proposed for approval by this action will impose no new requirements, such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this proposed action does not include a mandate that may result in estimated costs of $100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 29, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95–19000 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MO–18–1–6024b; FRL–5264–1]

Approval and Promulgation of Implementation Plans; State of Missouri

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 Missouri for the purpose of bringing about the attainment of the National Ambient Air Quality Standard for lead. The SIP was submitted by the state to satisfy certain Federal requirements for an approvable nonattainment area lead SIP for the Doe Run primary and secondary lead smelter near Bixby, Missouri. In the final rules section of the **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 this proposed rule, no further activity is contemplated in relation to this rule. If the 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: Comments on this proposed rule must be received in writing by September 5, 1995.

ADDRESSES: Comments may be mailed to Lisa V. Haugen, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: July 11, 1995.

Dennis Grams, P.E.,

Regional Administrator.

[FR Doc. 95–19216 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WV10–1–5918b; FRL–5265–8]

Approval and Promulgation of Air Quality Implementation Plans; State of West Virginia—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) specified actual emission threshold levels. This program applies to stationary sources within the counties of Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier. The SIP revision was submitted by the State to satisfy the Clean Air Act's requirements for an emission statement program as part of the ozone SIP for the State of West Virginia. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this 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. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 5, 1995.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs (3AT00), 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 West Virginia Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597–3164.

SUPPLEMENTARY INFORMATION: On August 10, 1993, the West Virginia Office of Air Quality (WVOAQ) submitted a SIP revision to EPA. This SIP revision would add West Virginia Regulation Title 45, Series 29,''Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions,'' consisting of Subsections: 1. General; 2. Definitions; 3. Applicability; 4. Compliance Schedule; 5. Emission Statement Requirements; 6. Enforceability; and 7. Severability, effective July 7, 1993 in the State of West Virginia. In accordance with the requirements of 40 CFR 51.102, a public hearing concerning West Virginia's SIP revision was held on June 23, 1993, in Charleston, West Virginia.

See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: July 14, 1995.

Stanley L. Laskowski,

Acting Regional Administrator Region III.

[FR Doc. 95–19273 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[WV27–1–7013b, WV27–2–7014b; FRL–5266–1]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Greenbrier County, West Virginia Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of West Virginia for the purpose of establishing a 1990 base year ozone inventory and a maintenance plan for the Greenbrier County ozone nonattainment area. EPA is also proposing to approve the request submitted by the State of West Virginia to redesignate the Greenbrier County area to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision and redesignation request as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the Technical Support Document (TSD) that has been prepared by EPA on these rulemaking actions. The TSD is available for public inspection at the EPA Regional office listed in the **ADDRESSES** section of this notice. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this 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. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 5, 1995.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, 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 West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 597–0545.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: July 14, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 95–19275 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[TX–001; FRN–5270–9]

Clean Air Act Interim Approval of Operating Permits Program; Texas Natural Resource Conservation Commission Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published June 7, 1995 (60 FR 30037). On June 7, 1995, EPA proposed interim approval of the operating permits program submitted by the State of Texas. EPA received a letter from the Texas Title V Planning Committee as well as a verbal request from Texas Natural Resource Conservation Commission requesting a 90 day extension of the public comment period. Therefore, EPA is extending the comment period until October 5, 1995.

DATES: Comments must be received in writing on or before October 5, 1995.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole C. Luehrs, Chief, New Source Review Section, at the EPA, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: David F. Garcia, New Source Review Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7217.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 26, 1995.

Russell Rhoades,

Acting Regional Administrator (6A).

[FR Doc. 95–19193 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7140]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
PENNSYLVANIA	
Hatfield (borough), Montgomery County	
West Branch Neshaminy Creek:	
Approximately 300 feet downstream of Lakewood Avenue	*300
Approximately 150 feet upstream of Lakewood Avenue	*301
Maps available for inspection at the Borough Hall, 401 South Main Street, Hatfield, Pennsylvania.	
Send comments to Mr. Mark A. Curfman, Manager of the Borough of Hatfield, 401 South Main Street, Hatfield, Pennsylvania 19440–0190.	
Jenkintown (borough), Montgomery County	
Tacony Creek:	
Approximately 200 feet upstream of Greenwood Avenue	*206
At the confluence of Baeder Run	*220
Baeder Run:	
At the confluence with Tacony Creek	*220
Approximately 586 feet upstream of confluence with Tacony Creek	*220
Maps available for inspection at the Jenkintown Borough Offices, 700 Summit Avenue, Jenkintown, Pennsylvania.	
Send comments to Mr. Thomas Oliver, President of the Jenkintown Borough Council, P.O. Box 2176, Jenkintown, Pennsylvania 19046.	
Lower Salford (township), Montgomery County	
Skippack Creek:	
At Quarry Bridge Road	*176
Near Wampole Road approximately 950 feet upstream of State Highway 63	*199
Skippack Creek Tributary No. 2:	
Approximately 150 feet downstream of Wampole Road	*211
Approximately 525 feet upstream of Wampole Road	*212
Maps available for inspection at the Township Office, 474 Main Street, Harleysville, Pennsylvania.	
Send comments to Mr. Richard Prescott, Chairman of the Lower Salford Township Board of Commissioners, 474 Main Street, Harleysville, Pennsylvania 19438.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsburg (borough), Montgomery County	
Macoby Creek:	
Approximately 0.2 mile downstream of Otts Road	*331
Approximately 325 feet downstream of Otts Road	*334
Maps available for inspection at the Pennsburg Borough Building, 76 West 6th Street, Pennsburg, Pennsylvania.	
Send comments to Mr. Larry Raeder, President of the Pennsburg Borough Council, 76 West 6th Street, Pennsburg, Pennsylvania 18073.	
Springfield (township), Montgomery County	
Oreland Run:	
At confluence with Wissahickon Creek	*149
Approximately 650 feet upstream of confluence with Wissahickon Creek	*150
Maps available for inspection at the Springfield Township Municipal Building, 1510 Paper Mill Road, Wyndmoor, Pennsylvania.	
Send comments to Mr. Donald E. Berger, Springfield Township Manager, 1510 Paper Mill Road, Wyndmoor, Pennsylvania 19038.	
Upper Dublin (township), Montgomery County	
Tannery Run (Backwater Area):	
Approximately 150 feet east of intersection of Butler Avenue and West Maple Avenue	*198
Maps available for inspection at the Municipal Building, 801 Loch Alsh Avenue, Fort Washington, Pennsylvania.	
Send comments to Mr. Richard R. Rulon, President of the Upper Dublin Township Board of Commissioners, 801 Loch Alsh Avenue, Fort Washington, Pennsylvania 19034.	
Whitpain (township), Montgomery County	
Wissahickon Creek:	
At a point approximately 320 feet upstream of Swedesford Road	*273
At a point approximately 1,200 feet upstream of Swedesford Road	*274
Maps available for inspection at the Whitpain Township Administration Building, 960 Wentz Road, Blue Bell, Pennsylvania.	
Send comments to Mr. Leigh P. Narducci, Whitpain Township Chairman, P.O. Box 800, Blue Bell, Pennsylvania 19422.	

§ 67.4 [Amended]

3. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maryland	Prince George's County (unincorporated areas).	Bald Hill Branch	Approximately 1,300 feet upstream of Brae Brook Drive.	None	*164
			Approximately 475 feet upstream of confluence with Western Branch.	*92	*93
Maps available for inspection at the Department of Environmental Resources, Information and Permits Management Section, Inglewood III Office Building, 9400 Peppercorn Place, Sixth Floor, Landover, Maryland.					
Send comments to Ms. Malinda Y. Steward, Prince George's County Government, Department of Environmental Resources, Information and Permits Management Section, Inglewood III Office Building, 9400 Peppercorn Place, Sixth Floor, Landover, Maryland 20785.					
Minnesota	Alvarado (city) Marshall County.	Snake River	At downstream corporate limits (State Route 1).	*810	*811
			At upstream corporate limits (approximately 0.6 mile upstream of State Route 1).	*812	*813
Maps available for inspection at the Alvarado City Hall, Marshall Street, Alvarado, Minnesota.					
Send comments to The Honorable Lloyd Wilke, Mayor of the City of Alvarado, Box 759, Alvarado, Minnesota 56710.					
Pennsylvania	Abington (township) Montgomery County.	Sandy Run	At confluence with Sandy Run.	*232	*236
		Tributary No. 1	Approximately 850 feet upstream of Johnston Avenue.	*237	*238
3		Tacony Creek	Approximately 350 feet upstream of Greenwood Avenue.	None	*206
			Approximately 1,200 feet upstream of Greenwood Avenue.	*211	*210
		Pennypack Creek	A point approximately 1,700 feet downstream of Moredon Road.	*99	*100
			A point approximately 1,300 feet downstream of Moredon Road.	*99	*100

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Township Engineer's Office, 1176 Old York Road, Abington, Pennsylvania.					
Send comments to Mr. Richard Fluge, President of the Abington Township Board of Commissioners, 1176 Old York Road, Abington, Pennsylvania 19001.					
Pennsylvania	Bridgeport (borough) Montgomery County.	Schuylkill River	Approximately 1.0 mile downstream of Dekalb Street (U.S. Route 202 North).	*75	*72
			Approximately 50 feet upstream of Norristown Dam.	*78	*76
Maps available for inspection at the Borough Hall, 4th and Mill Street, Bridgeport, Pennsylvania.					
Send comments to The Honorable Thomas Novitski, Mayor of the Borough of Bridgeport, P.O. Box 148, Bridgeport, Pennsylvania 19405.					
Pennsylvania	Cheltenham (township) Montgomery County.	Tacony Creek	At East Cheltenham Avenue.	*80	*79
Maps available for inspection at the Cheltenham Township Administrative Building, 8230 Old York Road, Elkins Park, Pennsylvania.					
Send comments to Mr. Harvey Portner, President of the Cheltenham Township Board of Commissioners, 8230 Old York Road, Elkins Park, Pennsylvania 19027.					
Pennsylvania	Conewago (township) Adams County.	Plum Creek	Approximately 1 mile upstream of confluence with South Branch Conewago Creek.	none	*519
			At county boundary	None	*560
		Slagle Run	Approximately 150 feet upstream of downstream corporate limits.	None	*522
			At county boundary	None	*539
Maps available for inspection at the Conewago Township Building, 350 Third Street, Hanover, Pennsylvania.					
Send comments to Mr. Edwin Calvert, Township Manager of Conewago, 350 Third Street, Hanover, Pennsylvania 17331.					
Pennsylvania	Franklin (township) Chester County.	Middle Branch, White Clay Creek.	Approximately 0.4 mile downstream of Avondale-New London Road.	None	*301
			Approximately 1,300 feet downstream of Avondale-New London Road.	None	*306
Maps available for inspection at the Franklin Township Building, Appleton Road, Kemblesville, Pennsylvania.					
Send comments to Mr. Karl Mehn, Zoning Officer, Township of Franklin, P.O. Box 118, Kemblesville, Pennsylvania 19347.					
Pennsylvania	Hatfield (township) Montgomery County.	West Branch, Neshaminy Creek.	At upstream side of Lexington Road.	*285	*284
			Approximately 110 feet upstream of Lexington Road.	*285	*284
*Maps available for inspection at the Township Building, 1950 School Road, Hatfield, Pennsylvania.					
Send comments to Ms. Jean Vandegrift, President of the Hatfield Township Board of Commissioners, 1950 School Road, Hatfield, Pennsylvania 19440.					
Pennsylvania	Limerick (township) Montgomery County.	Schuylkill River	Approximately 2.0 mile downstream of Vincent Dam.	*118	113
			Approximately 1.6 mile upstream of Legislative Route 462 (Main Street).	*129	*125
Maps available for inspection at the Code Enforcement Office, 646 West Ridge Pike, Limerick, Pennsylvania.					
Send comments to Mr. Mark John, Code Enforcement and Zoning Officer for the Township of Limerick, 646 West Ridge Pike, Limerick, Pennsylvania 19468.					
Pennsylvania	London Grove (township) Chester County.	Middle Branch, White Clay Creek.	Approximately 1,300 feet downstream of Avondale-New London Road.	None	*306
			Approximately 0.7 mile upstream of Hilton Road.	None	*487

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the London Grove Township Building, 3 London Way, Avondale, Pennsylvania.					
Send comments to Mr. Lewis C. Ross, Chairman of the London Grove Township Board of Supervisors, 3 London Way, Avondale, Pennsylvania 19311.					
Pennsylvania	Lower Merion (township) Montgomery County.	Mill Creek	At confluence with the Schuylkill River.	*56	*53
			Approximately 375 feet upstream of confluence with the Schuylkill River.	*56	*55
			At the county boundary (just downstream of U.S. Route 1).	*38	*37
			Approximately 3.7 miles upstream of confluence of Mill Creek.	*65	*63
Maps available for inspection at the Lower Merion Building Department, 75 E. Lancaster Avenue, Ardmore, Pennsylvania.					
Send comments to Mr. David C. Latshaw, Township Manager, 75 E. Lancaster Avenue, Ardmore, Pennsylvania 19003.					
Pennsylvania	Lower Moreland (township) Montgomery County.	Pennypack Creek	Approximately 0.4 mile downstream of confluence of Huntingdon Valley Creek.	*117	*118
Maps available for inspection at the Lower Moreland Municipal Building, 640 Red Lion Road, Huntingdon Valley, Pennsylvania.					
Send comments to Mr. Bernard Kanefsky, President of the Lower Moreland Township Board of Commissioners, 640 Red Lion Road, Huntingdon Valley, Pennsylvania 19006.					
Pennsylvania	Lower Pottsgrove (township) Montgomery County.	Sanatoga Creek	At confluence with the Schuylkill River.	*132	*127
			Approximately 150 feet upstream of Green Lane Road.	*132	*131
		Sprogels Run	At confluence with the Schuylkill River.	*145	*130
			At upstream side of Sanatoga Station Road.	*134	*133
		Schuylkill River	Approximately 0.7 mile downstream of Sanatoga Road.	*130	*125
			Approximately 800 feet upstream of U.S. Route 422.	*140	*137
Maps available for inspection at the Lower Pottsgrove Municipal Building, 2199 Buchert Road, Pottstown, Pennsylvania.					
Send comments to Mr. Gerald G. Richards, President of the Lower Pottsgrove Township Board of Commissioners, 2199 Buchert Road, Pottstown, Pennsylvania 19464.					
Pennsylvania	Lower Providence (township) Montgomery County.	Schuylkill River	Approximately 1,100 feet upstream of U.S. Route 422.	*85	*83
			At confluence of Perkiomen Creek.	*97	*94
		Perkiomen Creek	At confluence with Schuylkill River.	*97	*94
			Approximately 400 feet upstream of the confluence with the Schuylkill River.	*97	*96
Maps available for inspection at the Lower Providence Township Building, 100 Park Lane Drive, Eagleville, Pennsylvania.					
Send comments to Mr. Richard Brown, Chairman of the Lower Providence Township Board of Supervisors, 100 Park Lane Drive, Eagleville, Pennsylvania 19403.					
Pennsylvania	New Hanover (township) Montgomery County.	Minister Creek	Approximately 0.62 mile upstream of the confluence of Minister Creek Tributary.	*271	*270

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.74 mile upstream of the confluence of Minister Creek Tributary.	*273	*271
		Swamp Creek	Approximately 900 feet upstream of Colonial Road.	None	*235
			Approximately 1,450 feet upstream of Colonial Road.	None	*236

Maps available for inspection at the New Hanover Township Municipal Building, 2943 North Charlotte Street, Gilbertsville, Pennsylvania.

Send comments to Ms. Anita B. Turner, New Hanover Township Manager, 2943 North Charlotte Street, Gilbertsville, Pennsylvania.

Pennsylvania	Norristown (borough) Montgomery County.	Stony Creek	At confluence with the Schuylkill River.	*79	*76
			Approximately 380 feet upstream of Factory Bridge.	*79	*78
		Schuylkill River	Approximately 0.7 mile downstream of confluence of Sawmill Run.	*75	*72
			Approximately 0.5 mile upstream of Hawes Avenue.	*80	*78

Maps available for inspection at the Borough Hall, 235 East Airy Street, Norristown, Pennsylvania.

Send comments to The Honorable Jack Salamone, Mayor of the Borough of Norristown, 235 East Airy Street, Norristown, Pennsylvania 19401–5048.

Pennsylvania	Penn (township) Chester County.	Middle Branch White Clay Creek.	Approximately 100 feet upstream of Tice Road.	None	*422
			Approximately 1,200 feet upstream of Tice Road.	None	*428

Maps available for inspection at the Penn Township Building, 150 Sunnyside Road, West Grove, Pennsylvania.

Send comments to Mr. Vincent J. Santucci, Chairman of the Penn Township Board of Supervisors, 475 W. Baltimore Pike, West Grove, Pennsylvania 19390.

Pennsylvania	Plymouth (township) Montgomery County.	Schuylkill River	Approximately 0.2 mile downstream of Interstate Route 476 (Mid County Expressway).	*70	*67
			Approximately 1,000 feet upstream of I–276 Pennsylvania Turnpike.	*74	*72

Maps available for inspection at the Office of Public Works, 700 Belvior Road, Norristown, Pennsylvania.

Send comments to Mr. Timothy A. Boyd, P.E., Director of Public Works for the Township of Plymouth, 700 Belvior Road, Norristown, Pennsylvania 19401.

Pennsylvania	Pottstown (borough) Montgomery County.	Manatawny Creek	At confluence with the Schuylkill River.	*145	*142
			Approximately 400 feet upstream of confluence with the Schuylkill River.	*145	*144
		Sprogels Run	Approximately 0.24 mile upstream of U.S. Route 422.	None	*137
			Approximately 0.32 mile upstream of East High Street.	None	*144
		Schuylkill River	Approximately 0.4 mile downstream of South Kiem Street.	*140	*137
			Approximately 100 feet upstream of U.S. Route 422.	*148	*145

Maps available for inspection at the Code Enforcement Office, Borough Hall, 241 King Street, Pottstown, Pennsylvania.

Send comments to Mr. Robert Jones, Pottstown Borough Manager, Borough Hall, 241 King Street, Pottstown, Pennsylvania 19464.

Pennsylvania	Royersford (borough) Montgomery County.	Schuylkill River	Approximately 0.6 mile downstream of State Route 683 (Main Street).	*113	*109

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.6 mile upstream of State Route 683.	*118	*113
Maps available for inspection at the Royersford Borough Hall, 300 Main Street, Royersford, Pennsylvania.					
Send comments to The Honorable Ronald Nettles, Mayor of the Borough of Royersford, 300 Main Street, P.O. Box 188, Royersford, Pennsylvania 19468.					
Pennsylvania	Salford (township) Montgomery County.	East Branch, Perkiomen Creek.	Approximately 100 feet upstream of Moyer Road.	*221	220
			Approximately 1,400 feet upstream of Moyer Road.	*223	*222
Maps available for inspection at the Zoning Office, 139 Ridge Road, Tylersport, Pennsylvania.					
Send comments to Mr. Donald R. Lodge, Jr., Chairman of the Salford Township Board of Supervisors, P.O. Box 54, Tylersport, Pennsylvania 18971.					
Pennsylvania	Upper Frederick (township) Montgomery County.	Swamp Creek	Approximately 685 feet upstream of Neiffer Road.	None	*200
			Approximately 1,425 feet upstream of Neiffer Road.	None	*204
Maps available for inspection at the Township Building, 3205 Big Road, Obelisk, Pennsylvania.					
Send comments to Mr. Gerald McMahon, Chairman of the Upper Frederick Township Board of Commissioners, 3205 Big Road, Obelisk, Pennsylvania 19492.					
Pennsylvania	Upper Merion (township) Montgomery County.	Schuylkill River	Approximately 0.2 mile upstream of Interstate Route 476 (Mid County Expressway).	*71	*68
			At confluence of Valley Creek.	*93	*88
		Valley Creek	Approximately 0.4 mile downstream of the county boundary.	None	*96
			At county boundary	None	*104
		Trout Creek	At the confluence with the Schuylkill River.	*83	*81
			Approximately 450 feet upstream of the confluence with the Schuylkill River.	*83	*81
			Approximately 300 feet upstream Old State Route 363.	None	*107
			Approximately 750 feet upstream Old State Route 363.	None	*108
Maps available for inspection at the Department of Public Works, 175 West Valley Forge Road, King of Prussia, Pennsylvania.					
Send comments to Mr. Edward J. Wilkes, Jr., Chairman of the Upper Merion Township Board of Supervisors, 175 West Valley Forge Road, King of Prussia, Pennsylvania 19406.					
Pennsylvania	Upper Providence (township) Montgomery County.	Schuylkill River	At confluence of Perkiomen Creek.	*97	*94
			Approximately 0.8 mile upstream of confluence of Mingo Creek.	*113	*109
		Mingo Creek	Approximately 100 feet downstream of Old Mill Road.	None	*149
			Approximately 100 feet upstream of Old Mill Road.	None	*150
		Perkiomen Creek	At the confluence with the Schuylkill River.	*97	*94
			Approximately 400 feet upstream of the confluence with the Schuylkill River.	*97	*96

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Upper Providence Township Administration Office, 1286 Black Rock Road, Box 406, Oaks, Pennsylvania.					
Send comments to Mr. George W. Waterman III, Upper Providence Township Manager, 1286 Black Rock Road, Box 406, Oaks, Pennsylvania 19456.					
Pennsylvania	West Grove (borough) Chester County.	Middle Branch White Clay Creek.	Approximately 150 feet downstream of Valley Road.	None	*372
			Approximately 50 feet upstream of Valley Road.	None	*373
Maps available for inspection at the West Grove Borough Building, 117 Rose Hill Avenue, West Grove, Pennsylvania.					
Send comments to Mr. Charles I. Sensenig, West Grove Borough Council President, 245 West Evergreen Street, West Grove, Pennsylvania 19390.					
Pennsylvania	West Norriton (township) Montgomery County.	Schuylkill River	Approximately 0.2 mile downstream of U.S. Route 202 (South).	*78	*76
			Approximately 0.2 mile upstream of U.S. Route 422.	*85	*83
Maps available for inspection at the Township Building, 1630 West Marshall Street, Jeffersonville, Pennsylvania.					
Send comments to Mr. Joseph Estock, Engineer for the Township of West Norriton, 355 South Henderson Road, King of Prussia, Pennsylvania 19406.					
Pennsylvania	West Pottsgrove (township) Montgomery County.	Schuylkill River	Approximately 100 feet upstream of U.S. Route 422.	*148	*145
			Approximately 1.5 miles upstream of U.S. Route 422 (at the county boundary).	*151	*148
Maps available for inspection at the Municipal Office, 980 Grosstown Road, Stowe, Pennsylvania.					
Send comments to Mr. Joseph E. Karpinski, President of the West Pottsgrove Township Board of Commissioners, 823 Monroe Avenue, Stowe, Pennsylvania 19464–6124.					
Pennsylvania	Whitemarsh (township) Montgomery County.	Schuylkill River	At the county boundary	*57	*54
			Approximately 0.9 mile upstream of confluence of Andorra Creek.	*64	*62
		Oreland Run	At confluence with Wissahickon Creek.	None	*149
			Approximately 1,700 feet upstream of the confluence with Wissahickon Creek.	None	*154
Maps available for inspection at the Whitemarsh Township Administrative Building, 4021 Joshua Road, Lafayette Hill, Pennsylvania.					
Send comments to Mr. Lawrence J. Gregan, Whitemarsh Township Manager, 4021 Joshua Road, Lafayette Hill, Pennsylvania 19444.					
West Virginia	Bath (town) Morgan County	Warm Spring Run	Approximately 250 feet upstream of William Street.	*604	*605
			At the upstream side of Coughlan Lane.	*621	*622
		Davis Road Run	At confluence with Warm Spring Run.	*606	*607
		Yellow Spring Run	Approximately 50 feet upstream of confluence with Warm Spring Run.	*619	*620
			Approximately 145 feet upstream of confluence with Warm Spring Run.	*620	*621
Maps available for inspection at the Bath Town Hall, 504 North Washington Street, Berkeley Springs, West Virginia.					
Send comments to The Honorable Thomas Jackson, Mayor of the Town of Bath, 504 North Washington Street, Berkeley Springs, West Virginia 25411.					
West Virginia	Morgan County (unincorporated areas).	Warm Spring Run	Approximately 125 feet downstream of confluence of Unnamed Tributary.	None	*575

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.3 mile upstream of County Route 522/1.	None	*681
		Potomac River	At the confluence of Cherry Run (downstream county boundary).	None	*407
			At upstream county boundary.	None	*539
Maps available for inspection at the Morgan County Courthouse, Berkeley Springs, West Virginia. Send comments to Mr. Glen R. Stotler, Chairman of the Morgan County Commission, P.O. Box 28, Berkeley Springs, West Virginia 25411.					
West Virginia	Paw Paw (town) Morgan County.	Potomac River	At the Town of Paw Paw corporate limits.	None	*532
			Approximately 1.16 miles upstream of State Route 51.	None	*537
Maps available for inspection at the Paw Paw Town Hall, Paw Paw, West Virginia. Send comments to The Honorable Helena G. Moser, Mayor of the Town of Paw Paw, P.O. Box 35, Paw Paw, West Virginia 25434.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 28, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–19220 Filed 8–3–95; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 5

[Docket No. OST–95–360; Notice 95–9]

RIN 2105–AC11

Use of Direct Final Rule Making

AGENCY: Department of Transportation; Office of the Secretary.

ACTION: Notice of proposed rulemaking

SUMMARY: The Office of the Secretary (OST) is proposing to implement a new rulemaking procedure that would expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be noncontroversial and unlikely to result in adverse public comment would be published as ''direct final'' rules. Such direct final rules would advise the public that no adverse comment is anticipated, and that, unless written adverse comment or written notice of intent to submit adverse comment is received within the specified time, the rule will become effective a specified number of days after the date it is published in the **Federal Register**. This new procedure should expedite the promulgation of routine or otherwise noncontroversial rules by reducing the time necessary to develop, review, clear, and publish separate proposed and final rules where OST receives no public comment.

DATES: Comments are requested by October 3, 1995. Late-filed comments will be considered only to the extent practicable.

ADDRESSES: Comments on this proposal should be sent, preferably in triplicate, to Docket Clerk, Docket No. OST–95–360, Department of Transportation, 400 7th Street SW., Washington, DC 20590. Comments will be available for inspection at this address from 9 a.m. to 5:30 p.m., Monday through Friday.

Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Office of the General Counsel, U.S. Department of Transportation, 400 7th Street SW., Room 10424, Washington, DC 20590. (202) 366–9307.

SUPPLEMENTARY INFORMATION:

Background

The National Performance Review, a recent presidential initiative to reorganize and streamline the federal government, and the Administrative Conference of the United States identified several methods to improve the efficiency of agency rulemaking procedures. One was the use of ''direct final'' rulemaking in order to reduce needless double review of noncontroversial rules. The use of direct final rulemaking can eliminate an unnecessary second round of internal review and clearance, as well as public review, that presently exists for all proposed rules when the agency receives no adverse comment. The Environmental Protection Agency has been using this process for a number of years with great success, and other Departments, such as Agriculture, have recently adopted this procedure. In order to streamline the regulatory process and to fulfill Departmental missions, the Office of the Secretary proposes to use the direct final rulemaking procedure to promulgate specified categories of rules that are not expected to be controversial and that are unlikely to result in adverse comments.

The Direct Final Rule Process

The judgment that a particular rulemaking is noncontroversial and unlikely to result in adverse comment will be based upon the Office of the Secretary's experience with similar rules that were proposed and did not receive adverse public comment in the past. By ''adverse'' comment, we are referring to comments that are critical of the rule, that suggest that the rule should not be adopted, or that suggest a change should be made in the rule. A comment submitted in support of the rule would not be considered adverse. In addition, a comment suggesting that the policy or requirements of the rule should or should not also be extended to other Departmental programs outside the scope of the rule would not be considered adverse. The Environmental

Protection Agency has used this process in over two hundred cases, with great success. The U.S. Department of Agriculture has also recently adopted this process and used it in approximately a dozen rulemakings.

When using the direct final rulemaking procedure, the Office of the Secretary will publish the rule in the final rule section of the **Federal Register**. The document will advise the public that no adverse comment is anticipated, and that unless written adverse comment or written notice of intent to submit adverse comment is received within the specified time, the rule will become effective a specified number of days after the date it is published. The Administrative Procedure Act (5 U.S.C. 553) specifically provides that notice and public comment are not required if the agency finds good cause that notice and public procedures are unnecessary or contrary to the public interest. If the agency is mistaken and someone wishes to file adverse comments, this procedure will ensure that the public is given notice of the Secretary's intent to adopt the rule if no adverse comment is received, and an opportunity to participate in the rulemaking by submitting comments.

If no written adverse comment or written notice of intent to submit adverse comment is received in response to the rule, the Office of the Secretary would then publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective a specified number of days after the date that the direct final rule was published. However, if the Office of the Secretary does receive any written adverse comment or written notice of intent to submit adverse comment, then a notice withdrawing the direct final rule would be published in the final rule section of the **Federal Register** and a notice of proposed rulemaking would be issued in the proposed rule section. The proposed rule would provide for a new comment period.

Rules for which the Office of the Secretary believes that the direct final rulemaking procedure may be appropriate are noncontroversial rules that (1) affect internal procedures of the Office of the Secretary, such as filing requirements and rules governing inspection and copying of documents, (2) are nonsubstantive clarifications or corrections to existing rules, (3) update existing forms (4) make minor changes in the substantive rules regarding statistics and reporting requirements, such as a change in the reporting sequence (for example, from monthly to quarterly) or eliminating a type of data that no longer needs to be collected by the Office of the Secretary, (5) make changes to the rules implementing the Privacy Act, and (6) adopt technical standards set by outside organizations, such as those developed by the Architectural Barriers and Compliance Board for determining compliance with the Americans with Disabilities Act. We request comments on whether there are any other areas for which direct final rulemaking may be beneficial. As stated earlier, the direct final rulemaking procedure will only be used in circumstances where previous rulemakings indicate that adverse comment is unlikely. Even if a rulemaking fits into one of the above categories, if adverse comment is anticipated, we would not use the direct final rule process. The additional time and effort necessary to withdraw the rule and issue a Notice of Proposed Rulemaking if there is adverse comment will serve as an incentive for the Office of the Secretary to act conservatively in evaluating whether to use the procedure for a particular rule.

Regulatory Analyses and Notices

The Department has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. There are no costs associated with this rule. There will be some cost savings in **Federal Register** publication costs and efficiencies for the public and OST personnel in eliminating duplicative reviews. The Department certifies that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Department does not believe that there would be sufficient federalism implications to warrant the preparation of a federalism assessment.

List of Subjects in 49 CFR Part 5

Administrative practice and procedure. For the reasons set forth in the preamble, the Office of the Secretary proposes to amend 49 CFR Part 5 as follows:

PART 5—[AMENDED]

1. The authority citation for Part 5 continues to read as follows:

Authority: Sec. 9, 80 Stat. 944 (49 U.S.C. 1657).

2. Section 5.21 would be amended by adding paragraph (d), as follows:

§ 5.21 General.

* * * * *

(d) For rules for which the Secretary determines that notice is unnecessary because no adverse public comment is anticipated, the direct final rulemaking procedure described in § 5.35 of this subpart will be followed.

3. A new § 5.35, *Procedure for direct final rulemaking,* would be added to read, as follows:

§ 5.35 Procedures for direct final rulemaking.

(a) Rules that the Secretary judges to be noncontroversial and unlikely to result in adverse public comment will be published in the final rule section of the **Federal Register** as direct final rules. These include noncontroversial rules that:

(1) Affect internal procedures of the Office of the Secretary, such as filing requirements and rules governing inspection and copying of documents,

(2) Are nonsubstantive clarifications or corrections to existing rules,

(3) Update existing forms,

(4) Make minor changes in the substantive rules regarding statistics and reporting requirements, such as a change in the reporting sequence (for example, from monthly to quarterly) or eliminating a type of data that no longer needs to be collected by the Office of the Secretary,

(5) Make changes to the rules implementing the Privacy Act, and

(6) Adopt technical standards set by outside organizations, such as those developed by the Architectural Barriers and Compliance Board for determining compliance with the Americans with Disabilities Act.

(b) The **Federal Register** document will state that any adverse comment or notice of intent to submit adverse comment must be received in writing by the Office of the Secretary within the specified time after the date of publication, and that if no written adverse comment or written notice of intent to submit adverse comment is received, the rule will become effective a specified number of days after the date of publication.

(c) If no written adverse comment or written notice of intent to submit adverse comment is received by the Office of the Secretary within the specified time of publication in the **Federal Register**, the Office of the Secretary will publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(d) If the Office of the Secretary receives any written adverse comment or written notice of intent to submit

adverse comment within the specified time period, a notice withdrawing the direct final rule will be published in the final rule section of the **Federal Register** and a notice of proposed rulemaking will be issued in the proposed rule section of the **Federal Register**.

(e) An ''adverse'' comment for the purpose of this subpart means any comment that is critical of the rule, that suggests that the rule should not be adopted, or suggests a change that should be made in the rule. A comment suggesting that the policy or requirements of the rule should or should not also be extended to other Departmental programs outside the scope of the rule is not adverse.

Issued in Washington, DC on this 19th day of July, 1995.

Federico Peña,

Secretary.

[FR Doc. 95–19108 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Marine Fisheries Service

50 CFR Part 402

RIN 1018–AD32

Joint Counterpart Endangered Species Act Section 7 Consultation Regulations

AGENCIES: Fish and Wildlife Service, Interior; and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: With the concurrence of the U.S. Department of Agriculture, Forest Service (FS) and the Department of the Interior, Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) propose to promulgate counterpart section 7 consultation regulations (50 CFR 402) under the Endangered Species Act of 1973 to establish an alternate consultation process. These regulations supplement the more general consultation regulations in Part 402 to provide for a more effective and efficient process to meet the specific needs of BLM and FS programs.

DATES: Comments on this proposal must be received by October 3, 1995, in order to be considered in the final decision on this proposal.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Washington, DC 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours in Room 452, 4401 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, at the above address (703/358–2171; facsimile 703/358–1735) or Robert C. Ziobro, Endangered Species Division, NMFS, 1335 East-West Highway, Silver Spring, MD 20910 (301/713–1401 facsimile 301/713–0376).

SUPPLEMENTARY INFORMATION:

Background

These proposed joint counterpart Endangered Species Act (ESA) consultations procedures govern ESA section 7(a) consultation for FS and BLM. The procedures differ from the existing procedures in part 402 subparts A and B in that they encourage ESA consultation well before project-level decisions are made and provide a framework for consultation on program-level or ecosystem-level decisions, as opposed to project-level decisions. This early consultation at the program-level facilitates future consultation at the project-level and these procedures describe how that streamlining is accomplished. In addition, while the regulations at part 402 subparts A and B are silent as to whether ongoing actions can continue during consultations, these regulations expressly address that issue and specify the measures the agencies will take regarding ongoing actions once ESA consultation at the project-level becomes mandatory.

Under these procedures, FS and BLM and the appropriate consulting Service (either FWS or NMFS) are required to enter into a consultation agreement, unless they have already done so for that species or decision, when (1) a new species is proposed for listing or is listed; (2) critical habitat is proposed for designation or is designated; (3) a revision or amendment of a land planning document is formally announced; or (4) FS, BLM or one of the Services requests a consultation agreement. In this agreement, the agencies choose how they will conduct program-level and project-level consultation. That is, they decide whether project-level (which the procedures call non-site-specific) consultation and when project-level (which these procedures call site-specific consultation) consultation will occur. The agreement sets a schedule for the chosen manner of consultation and all subsequent actions related to ongoing activities.

The objective of non-site specific consultation is to identify standards and guidelines or parameters that then can be applied to site-specific consultations. Where the parameters are identified as adequate to avoid adverse effects to the listed species in the non-site-specific consultation by the appropriate Service, the parameters are then used to facilitate site-specific consultation. For those actions that are in conformance with adequate parameters, consultations is concluded when FS and BLM notify the appropriate Service of the conforming action and provide the Service with the basis for that decision. Where no adequate parameters have been identified in a non-site-specific consultation, the action agencies are required to conduct consultation/conference pursuant to sections 402.10 and/or 402.14 for any project-level decisions.

The procedures address the measures the agencies are to take with respect to ongoing actions when consultation becomes mandatory under section 402.14. The procedures require the identification of all ongoing actions that may affect the listed species and an initial determination of which actions represent an imminent threat to the listed species. The action agencies are required to take all possible steps to halt or modify these imminent threat actions. The action agencies are required then to identify all actions that are likely to adversely affect the species in question and to review whether to take steps to halt or modify those actions as well. All other ongoing actions that are not halted under these procedures may go forward during consultation. Provisions for counterpart section 7 consultation procedures are set forth in section 402.04. Such regulations supersede consultation regulations at 50 CFR 402, subpart B.

As part of their land management planning processes, the FS prepares Land and Resource Management Plans and the BLM prepares Resource Management Plans. Plans identify general land-use purposes or allocations; future conditions that are desired on specific lands; goals and

objectives for resource conditions on specific lands; and standards, guidelines, or other mechanisms that govern activities conducted on lands managed by these agencies in the future. Plans provide the general framework under which those site specific activities are developed over a period of several years.

Because Plans do not normally prescribe specific land management activities, there is a significant level of uncertainty associated with the environmental consequences of Plans. This uncertainty is a particular problem when the BLM or FS try to fulfill their obligation to consult with the FWS and/or NMFS and assure that their activities are not likely to jeopardize the continued existence of threatened or endangered species since site-specific details are not often known when consultations are initiated. Because Plans are operational for a period covering several years, new species may be added to the list of threatened and endangered species, or significant new information may become available and re-evaluation of the effects of Plans on listed, proposed, or Category 1 species, and proposed or listed critical habitat may be required.

ESA section 7(a)(2) requires that ''each Federal agency shall, in consultation with and with the assistance of the Secretary [of the Interior or Commerce] insure that any action authorized, funded, or carried out by such agency * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat of such species.'' 16 U.S.C. 1536(a)(2). ESA section 7(a)(4) requires that ''[e]ach Federal agency shall confer * * * on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed * * * or result in the destruction or adverse modification of [proposed] critical habitat'' for that species. 16 U.S.C. 1536(a)(4). The manner or timing of consultation and conferencing is not prescribed by statute.

The ESA consultation regulations at section 402.14 provide that ESA consultation is required for any Federal action that may affect a listed species or critical habitat. These counterpart regulations encourage consultation before there is an action that may affect a species. Section 402.10 of the regulations provides that conferencing is required for any action that is likely to jeopardize the continued existence of any proposed species or result in the adverse modification of proposed critical habitat. These regulations encourage conferencing before an action is likely to jeopardize a proposed species or result in adverse modification of proposed critical habitat. Thus, the use of the terms ''consultation'' and ''conferencing'' in these regulations is not always equivalent to their use in the regulations at part 402 subparts A and B.

Sections 402.22 and 402.23 of these counterpart regulations facilitate and promote early consultation before it is mandatory under the ESA, as determined in the regulations at section 402.14, and establish a framework within which non-site-specific consultation may be conducted. Non-site-specific actions, as defined by these regulations, shall have no direct effect on listed species or critical habitat. Thus, the decision whether to engage in non-site-specific consultation is discretionary, that is, not required under the statute as interpreted by the part 402 subpart A and B regulations. Since non-site-specific actions themselves have no direct effect on the species, the written statement concluding non-site-specific consultation cannot provide definitive findings of effect and ''jeopardy'' as to the subject of consultation as can be provided in site-specific consultation.

Even though non-site-specific consultation is discretionary and cannot provide the definitive ''jeopardy/no-jeopardy'' determination that results from site-specific consultation, Federal agencies may elect to engage in non-site-specific consultation or conferencing even when neither consultation nor conferencing are mandatory, as determined by sections 402.10 and 402.14, to facilitate more efficient compliance with their ESA duty. Such non-site-specific consultation may provide an efficient anticipatory step to, or may be an integral part of, mandatory ESA consultation compliance. It can provide an efficient means of reviewing potential impacts to listed species on a broad scale and lead to the identification of parameters that address the needs of species throughout all or a portion of their range or within the geographic scope of the non-site specific consultation. These parameters may then be applied in site-specific consultations and conferences, thereby streamlining the process of complying with the ESA consultation requirements for site-specific actions that may affect listed species or critical habitat or jeopardize proposed species or adversely modify or destroy proposed critical habitat. Section 402.22 of these counterpart regulations provides for a consultation agreement to facilitate this process and section 402.23 provides a framework for this discretionary non-site-specific consultation.

Section 402.24 addresses consultation as it relates to site-specific actions, where consultation is mandatory as defined by the regulations in section 402.14. Section 402.24(a) specifies how mandatory site-specific consultation shall be conducted where relevant parameters have been identified and deemed sufficient pursuant to a relevant non-site-specific consultation and an action is in conformance with those parameters. Where adequate parameters have not been developed or an action is not in conformance with those parameters, section 402.24(a) provides that consultation shall proceed as described in the part 402 subparts A and B regulations.

Once consultation becomes mandatory at the project level, certain ongoing actions may need to be suspended until the conclusion of consultation to insure the integrity of the consultation process. Sections 402.24(b), (c), and (d) provide a process for reviewing, and determining whether to halt, ongoing site-specific actions for which parameters have not been developed, once ESA consultation at the project level becomes mandatory. Since site-specific consultation at the non-site-specific level is discretionary, not mandatory, no similar provision governing review of ongoing actions is required during non-site-specific consultation.

Sections 402.24 (c) and (d) also provide that other actions associated with actions that may cause imminent threats to or are likely to adversely affect listed species or its critical habitat may need to be suspended as well during consultation. ESA consultation on imminent threat and likely to adversely affect actions (unlike ESA consultation on actions that are not likely to adversely affect listed species) have a reasonable potential to result in the identification of reasonable and prudent alternatives to the action in consultation. In such circumstances, section 7(d) of the ESA also prohibits the action agency from undertaking any irreversible and irretrievable commitments of resources associated with such actions that would foreclose the formulation or implementation of reasonable and prudent alternative.

Required Determinations

This rule was reviewed under Executive Order 12866. The Fish and Wildlife Service certifies that the proposed revisions to 50 CFR 402 will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). Significant adverse economic impacts are not expected as a result of the proposed rule because: (1) the rule is intended to reduce or eliminate altogether the consultation requirements on numerous Federal actions under the ESA with respect to listed and proposed species; and (2) the rule amends 50 CFR 402, resulting in consultation efficiencies that will effectively reduce potential economic burdens associated with consultation requirements. Also, no direct costs, enforcement costs, information collection, or recordkeeping requirements are required by this proposed rule beyond those already required by existing 50 CFR 402 regulations, nor does the proposed rule contain any recordkeeping requirements as defined by the Paperwork Reduction Act of 1980. Further, this rule does not require a Federalism assessment under Executive Order 12612 because it would have no significant Federalism effects as described in the order. Finally, the Service has determined that the proposed regulation does not require the preparation of a Takings Implication Assessment under the requirements of Executive Order 12630, ''Government Actions and Interference with Constitutionally Protected Property Rights.'' These counterpart regulations pertain solely to consultation coordination procedures and the procedures have no impact on personal property rights.

Author

The primary authors of this proposal are Jay Slack, Department of the Interior, Fish and Wildlife Service, Division of Endangered Species, Arlington, Virginia 22203 (703/358–2106); Jim Hoff, Department of the Interior, Bureau of Land Management, Washington, D.C. 20240 (202/452–5045); Harv Forsgren, Department of Agriculture, Forest Service, Washington, D.C. 20090 (202/205–0830); Bob Ziobro, Department of commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Silver Spring, Maryland 20910 (301/713–1401).

List of Subjects in 50 CFR Part 402

Endangered and threatened species.

Proposed Regulation Promulgation

Accordingly, the FWS and NMFS hereby propose to amend part 402, title 50 of the Code of Federal Regulations, as set forth below:

PART 402—[AMENDED]

1. The authority citation for part 402 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. Revise § 402.04 to read as follows:

§ 402.04 Counterpart regulations.

The consultation procedures set forth in this part may be superseded for a particular Federal agency by joint counterpart regulations issued by, the Fish and Wildlife Service, and the National Marine Fisheries Service with the written concurrence of the action agency published with that counterpart regulation. Such counterpart regulations shall be published in the **Federal Register** in proposed form and shall be subject to public comment for at least 60 days before final rules are published. Counterpart regulations appear in subpart C of this part.

3. Add a new subpart C—Counterpart Regulations and sections 402.20 to 402.29 to read as follows:

§ 402.20 Scope.

The counterpart regulations in this subpart supplement and, where applicable, set forth an alternative to the Endangered Species Act (ESA) consultation regulations found in subparts A and B of this part for the Forest Service (FS), Department of Agriculture and the Bureau of Land Management (BLM), Department of the Interior.

(a) Sections 402.22 and 402.23 of the counterpart regulations in this subpart address consultation agreements and non-site-specific consultations, respectively. Both facilitate ESA consideration and coordination sooner than is required by subpart A and B of this part. Section 402.22 establishes a process by which FS and BLM, in coordination with the Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS), determine whether and in what manner to engage in non-site-specific consultations related to their land management planning efforts pursuant to, *inter alia*, the Endangered Species Act, 16 U.S.C. 1531, *et seq.*, the National Forest Management Act of 1976, 16 U.S.C. 1604 and 36 CFR 219, the Federal Land and Policy Management Act of 1976, 43 U.S.C. 1701–1784 and the Oregon and California Lands Act, 43 U.S.C 1181a. Section 402.23 provides a framework for non-site-specific ESA consultation which may result in the identification of protective parameters for listed species and critical habitat.

(b) Section 402.24 addresses site-specific consultations and conferences. Section 403.24(a) provides an alternative to subparts A and B of this part governing how ongoing and proposed site-specific actions shall be conducted where sufficient parameters have been identified in a relevant non-site-specific consultation. Sections 402.24(b), (c), and (d) provide a process for reviewing ongoing site-specific actions when consultation becomes mandatory and no sufficient parameters have been identified.

§ 402.21 Definitions.

Many of the terms used in the regulations in this subpart are defined in section 402.02. In addition, the terms defined in this section are applicable to this subpart.

(a) *Action agency* means either the FS or the BLM.

(b) *Consultation* means all oral and written communications between the Action Agency and the Service designed to facilitate that Action Agency's compliance with the ESA. Consultation includes, but is not limited to, early, informal and formal consultation under the regulations in subpart B of this part, as well as early non-site-specific consultation as provided for in §§ 402.22 and 402.23;

(1) *Site-specific consultation* means any consultation the subject of which is a particular site-specific action or group of site-specific actions that may affect listed species or critical habitat; and

(2) *Non-site-specific consultation* means any consultation undertaken the subject of which is something other than a particular site-specific action or group of site-specific actions.

(c) *Is likely to adversely affect* means the appropriate conclusion if an adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but also likely to cause some adverse effects, then the proposed action ''is likely to adversely affect'' the listed species or critical habitat. An ''is likely to adversely affect'' determination requires formal consultation.

(d) *Is not likely to adversely affect* means the appropriate conclusion when effects on the species or critical habitat are expected to be beneficial, discountable, or insignificant. Beneficial effects have contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact (and should not reach the scale where take occurs, as defined in 16 U.S.C. 1532(19) and 50 CFR 17.3). Discountable effects are those extremely unlikely to occur. Based on best judgment, a person would not be able to meaningfully measure, detect, or evaluate insignificant effects or expect discountable effects to occur.

(e) *Site-specific action* means any FS or BLM action or group of actions (as defined in § 402.02) that has physical, biological, or chemical effects on the environment;

(1) Any other FS and BLM action is a non-site-specific action;

(2) *ongoing site-specific action* means a site-specific action that is being executed or one for which a project level decision has been made or that otherwise has been authorized by the Action Agency but has not yet been completed at the time consultation is initiated (*e.g.*, actions that were authorized, funded, or initiated prior to the relevant triggering event and in which there is discretionary Federal involvement or control); and

(3) *Proposed site-specific action* means a site-specific action that has not yet been finally authorized by the Action Agency.

§ 402.22 Consultation/conference agreement.

(a) *Commencement of discussions.* (1) Unless the event was contemplated and addressed in a prior consultation/conference agreement in accordance with this section, the Action Agency and Service shall discuss and determine the most efficient method for fulfilling the purposes of the ESA consistent with the regulations in this subpart , as soon as practicable after any of the following events:

(i) Publication of a proposed rule to list a species or to designate critical habitat;

(ii) Listing of a species or designation of critical habitat;

(iii) Formal proposal of a new, or amendment or revision of an existing, BLM or FS land management planning decision, including but not limited to the proposal of a land and resource management plan, resource management plan, or a protective initiative, but not including instructional memoranda, policies, directives or revisions to agency manuals; or

(iv) When, at any time, an Action Agency or the Service requests such discussions.

(2) Where any of these events affects more than one administrative unit of the Action Agency or the Service, these discussions shall be conducted jointly by, or on behalf of, all such units.

(b) *Consultation/conference agreement.* Unless a different time frame is mutually agreed to by the Action Agency and the Service, the results of these discussions shall be embodied in a document (hereinafter ''consultation/conference agreement''), to be completed within 45 days of the events listed in paragraph (a) of this section.

(1) The consultation/conference agreement shall:

(i) Identify the land management planning documents relevant to the present or anticipated need for ESA consultation/conference;

(ii) Where a land management planning document incorporates authorization for a relevant site-specific activity, identify the portions of the document that embody land management planning decisions and those that embody the site-specific decisions that must be the subject of site-specific consultation under subparts A and B of this part, as supplemented by § 402.24;

(iii) Determine whether and in what manner non-site-specific consultation will be undertaken, including a list of the species that will be considered and a description of the geographic area that is to be encompassed by the consultation, and set forth a preliminary schedule for and description of each major step required for each selected level of consultation;

(iv) Provide a description of how ESA requirements for applicant participation, if any, will be fulfilled;

(v) Establish any necessary and appropriate timeframes for completing any review of ongoing site-specific actions under § 402.24, and

(vi) If practicable within the period set forth in paragraph (b) of this section, incorporate parameters that will be used in making a determination for listed species of ''not likely to adversely affect'' or ''imminent threat,'' or for developing any appropriate standards for proposed or other species, in future site-specific consultation and conferences under the regulations in this subpart related to the same species and same geographic areas covered by the consultation/conference agreement.

(2) The consultation agreement may reflect consideration of a number of factors, including the types, impacts, and numbers of ongoing actions; the biology, ecology, distribution, and abundance of the relevant Category 1 candidate, proposed or listed species and proposed or designated critical habitat; human resource consideration; the timing of the consultation; National Environmental Policy Act, 43 U.S.C. 4321–4370(d), requirements for the Action Agency; data collection requirements; and existing and forthcoming protective strategies for the listed species.

(3) If the representatives of the Action Agency and the Service in the discussions required in paragraph (a) of this section cannot agree on the terms of the consultation/conference agreement, agreement shall promptly be reached jointly by the heads of the applicable agencies, or their designees.

(4) The time frames for development of, and the terms of, the consultation/conference agreement may be modified or deviated from upon mutual written agreement of the Action Agency and the Service.

§ 402.23 Non-site-specific consultation/conference.

(a) *Action agency responsibilities.* If the agencies elect to conduct non-site-specific consultation/conference, the Action Agency shall submit to the Service, by the date set forth in the consultation/conference agreement, or the date as modified by mutual agreement, the following information and documents:

(1) A copy of all documents, unless the document is already in the possession of the Service, deemed by the Action Agency to be relevant to the non-site-specific consultation/conference, including but not limited to, scientific documents and data, reports, draft environmental impact statements or assessments, forest plans, and resource management plans, or strategies, including initiatives designed to address the needs of the species identified in the consultation/conference agreement, which shall be the best scientific and commercial data available at the time of submission of the information required in this paragraph;

(2) A written statement of how any non-site-specific level decisions interact, if at all, with decisions at the site-specific level and with the species identified in the consultation/conference agreement and proposed or designated critical habitat of concern;

(3) Identification of any parameters such that site-specific actions consistent with those parameters are not likely to adversely affect listed species and/or are not likely to jeopardize the continued existence of proposed species or adversely modify or destroy critical habitat.

(b) *Service responsibilities.* Within 135 days of receiving the information required under paragraph (a) of this section, the Service shall:

(1) Issue a written statement detailing whether the parameters identified pursuant to paragraph (a)(3) of this section provide appropriate parameters such that site-specific actions consistent with those parameters are not likely to adversely affect listed species or critical habitat and/or are not likely to jeopardize and continued existence of

proposed species or adversely modify or destroy proposed critical habitat; or

(2) If either there is no existing or proposed decision document, or the parameters identified in paragraph (a)(3) of this section are determined to be inadequate, provide a description of parameters sufficient under paragraph (a)(3) of this section, to the extent possible and to the degree permitted by the information provided by the Action Agency.

§ 402.24 Site-specific consultation/conference; ongoing site-specific actions during consultation.

(a) *Site-specific consultation/conference.* For site-specific actions that conform with parameters identified as sufficient under § 402.23, the Action Agency will provide, 30 days prior to the decision document for proposed actions, or pursuant to the time frames established in a consultation/conference agreement for ongoing actions, a written notification to the Service of the Action Agency determination and rationale that the action is in conformance with relevant parameters. This notification ends consultation under section 7(a)(2) of the ESA. Completion of consultation fulfills the Action Agency's responsibility to comply with section 7(d) of the ESA. If the Service disagrees with the Action Agency's determination, it may request reinitiation of informal or formal consultation as appropriate, under this part and provide a rationale for its request. Any ongoing or proposed site-specific action that is not in conformance with parameters identified under § 402.23 is subject to the consultation requirements under subparts A and B of this part, as supplemented by this section.

(b) *Identification of ongoing activities.* Pursuant to the timeframes established in the relevant consultation/conference agreement, the Action Agency will provide the Service with a written list of all ongoing site-specific actions relevant to the triggering event that may affect a listed species or its critical habitat. Such ongoing site-specific actions are ones that were authorized, funded, or initiated prior to the relevant triggering event and in which there is discretionary Federal involvement or control. Actions identified on the written list may continue under the regulations in this subpart during consultation without interruption unless suspended pursuant to paragraphs (c) or (d) of this section. The Action Agency should provide notice to affected parties consistent with appropriate agency procedures.

(c) *Imminent threats.* Pursuant to the timeframes establishment in the relevant consultation/conference agreement, the Action Agency and the Service shall review the actions identified pursuant to paragraph (b) of this section. For any action that both the Service and Action Agency agree may present an imminent threat to a listed species or its critical habitat, the Action Agency will, as soon as practicable and consistent with its legal authorities and obligations, initiate the appropriate administrative process to review whether the action needs to be modified, altered, or, if necessary, terminated. The Action Agency also shall initiate formal consultation/conference under §§ 402.10 and 402.14 as appropriate. When it is consistent with its legal authorities and obligations, the Action Agency should suspend any such action and any associated irretrievable or irreversible commitments of resources that would foreclose the formulation or implementation of reasonable and prudent alternatives under section 7(d) of the ESA, until it is determined that the action is not likely to jeopardize the continued existence of a listed species or result in the adverse modification or destruction of its critical habitat.

(d) *Likely to adversely affect actions.* Pursuant to the timeframes established in the relevant consultation/conference agreement, the Action Agency shall review the actions identified pursuant to paragraph (b) of this section, except for those already identified as imminent threats under paragraph (c) of this section, and identify for the Service those activities that are likely to adversely affect listed species or critical habitat. For any action so identified by the Action Agency, or for which the Service provides a written objection to its continuance and the rationale therefore, the Action Agency will, as soon as practicable and consistent with its legal authorities and obligations, initiate the appropriate administrative process to review whether the action, and any associated irretrievable or irreversible commitments of resources that would foreclose the formulation or implementation of reasonable and prudent alternatives under section 7(d) of the ESA, needs to be modified, altered, or, if necessary, terminated. The Action Agency also shall initiate formal consultation/conference under §§ 402.10 and/or 402.14.

§ 402.25 Timeframes.

All timeframes set forth in §§ 402.23 and 402.24 of this subpart may be modified by mutual agreement.

§ 402.26 Applicability.

The regulations in this subpart are applicable to the FS and BLM only where an event identified in § 402.22(a) occurs after [the effective date of the final rule].

§§ 402.27–402.29 [Reserved]

Dated: July 7, 1995.

George Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: June 30, 1995.

James R. Lyons,

Undersecretary, Natural Resources Environment.

Dated: July 3, 1995.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Dated: July 6, 1995.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

[FR Doc. 95–18919 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 60, No. 150
Friday, August 4, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 28, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

New

- Economic Research Service
- Adoption of Competitive Practices by U.S. Manufacturers
- Business or other for-profit; 3,500 responses; 1,750 hours
- David McGranahan (202) 219–0533
- Animal and Plan Health Inspection Service
- Foreign quarantine Notices—Logs and Lumber—Addendum 1
- PPQ 585, 588
- Business or other for-profit; 2,002,575 responses; 301,360 hours
- Mary Joyce Burt (301) 734–8393

Extension

- Natural Resources Conservation Service
- Volunteer Program—Earth Team
- NRCS–PER–001, NRCS–PER–002, NRCS–PER–003, NRCS–PER–004
- Individuals or households; 33,150 responses; 1,175 hours
- Paula Jones (202) 720–2847
- Forest Service
- Airplane Pilot Qualifications and Approval Record, Helicopter Pilot Qualifications and Approval Record Airplane Data Record, and Helicopter Data Record
- FS–5700–20 and 20a, FS–5700–21 and 21a
- Business or other for-profit; Individuals or households;
- 1185 responses; 296 hours
- Ed Stone (202) 205–1497
- Forest Service
- National Survey on Outdoor Recreation
- Individuals or households; 30,000 responses; 9,900 hours
- Ken Cordell (706) 546–2451
- Food and Nutrition Service
- 7 CFR Part 215—Special Milk Program for Children
- State, Local or Tribal Government; Business or other for-profit;
- Not-for-profit institutions; 145,996 responses; 677,520 hours
- Winnie McQueen (703) 305–2607

Revision

- Food Safety and Inspection Service
- Exportation, Transportation, and Importation of Meat and Poultry
- Products
- FSIS Form 9540–5
- Business or other for-profit; 2,181,328 responses; 168,758 hours
- Lee Puricelli (202) 720–7164
- Food Safety and Inspection Service
- Questionnaire for Hotline Callers
- Individuals or households; 3,200 responses; 287 hours
- Lee Puricelli (202) 720–7163
- Rural Utilities Service

RUS Prepayments and Related Reporting Burdens

RUS Form 606

Business or other for-profit; Individuals or households; Not-for-profit institutions; 115 responses; 2,000 hours

F. Lamont Heppe (202) 720–0736

- Federal Grain Inspection Service

Regulations Governing the National Inspection and Weighing System Under the USGSA and AMA of 46.

Business or other for-profit; Federal Government; State, Local or Tribal Government; 5,800,162 responses; 1,364,228 hours

Roy Bruner (202) 720–7485

- Animal and Plant Health Inspection Service

7 CFR 340—Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which there is Reason to Believe are Plant Pests

APHIS 2000, 2050, 2051, 2052, 2053, and 2054

Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government; 3,273 responses; 4,740 hours

Shirley Ingebritsen (301) 734–5874

- Animal and Plant Health Inspection Service

9 CFR 50 and 77, Tuberculosis

VS 1–24, 1–68, 6–22, 6–22B, 6–22A, 6–22C, 6–22D, 6–35, 6–38

Business or other for-profit; Farms; State, Local or Tribal Government; 53, 165 responses; 18,407 hours

Mitch Essey (301) 734–7927

- Rural Economic and Community Development

7 CFR 1951–T, Disaster Set-Aside Program

Farms; Individuals or households; Business or other for-profit; State, Local or Tribal Government; 14,000 responses; 1,970 hours

Jack Holston (202) 720–9736

- Forest Service

Forest Industries Data Collection System

Business or other for-profit; 2,550 responses; 2,007 hours

Dennis M. May (612) 649–5132

- Agricultural Marketing Service

Dried prunes Produced in California, Marketing Order No. 993

FV–165, FV–166, FV–167 FV–168, FV–169, FV–169A, FV–170, FV–171

Business or other for-profit; Farms; 3,832 responses; 696 hours

Valerie L. Emmer (202) 205–2829

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 95–19169 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 95–060–1]

Procedures for Importing Animals Through the Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are giving notice of the date and location of the lottery for authorization of the use of the Harry S Truman Animal Import Center (HSTAIC) in calendar year 1996. We are also giving notice of the period during which applications must reach the Animal and Plant Health Inspection Service in order to be included in the lottery.

DATES: To be included in the lottery for authorization to use HSTAIC in calendar year 1996, applications must be received no earlier than October 1, 1995, and no later than October 15, 1995. Deposits must be received by November 29, 1995. The lottery for authorization to use HSTAIC during 1996 will be held on December 6, 1995.

ADDRESSES: Completed applications and deposits must be sent to the Administrator, c/o Import-Export Animal Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, 4700 River Road Unit 39, Riverdale, MD 20737–1231. Application forms may be obtained by writing to the same address, or by calling the telephone number provided under the heading **FOR FURTHER INFORMATION CONTACT.** The lottery will be held at USDA, APHIS, Conference Room 3B01CN, 4700 River Road, Riverdale, MD.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Montgomery, Staff Specialist, Import-Export Animals Staff, National Center for Import-Export, VS, APHIS, Suite 3B30, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–8172.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 92, §§ 92.430, 92.431, 92.522, and 92.523 (referred to below as the regulations), set forth the conditions under which importers may qualify animals to enter the United States through the Harry S Truman Animal Import Center (HSTAIC) in Fleming Key, FL.

Because the demand for quarantine space at HSTAIC has traditionally exceeded the space available, the regulations provide that a lottery will be held each year during the first 7 days of December, to determine the priority of applications for the following calendar year. To be included in the December lottery, applications must reach the Import-Export Animals Staff of the Animal and Plant Health Inspection Service (APHIS) no earlier than October 1, and no later than October 15 of the year of the lottery. Additionally, applicants must send a deposit in the form of a certified check or money order in the amount of $32,000, payable to the United States Department of Agriculture, Animal and Plant Health Inspection Service, for each application. APHIS will not consider an application unless we receive this deposit from the applicant on or before November 29, 1995. In the event that the Import-Export Animals Staff receives no more than one application between October 1, 1995, and October 15, 1995, the lottery will not be held, and APHIS will grant exclusive right to use HSTAIC during the calendar year 1996 in the order applications are received.

Applicants should be aware that certain improvements are being made to the HSTAIC facility in order to meet standards set by the Florida Department of Environmental Protection. The availability of HSTAIC for use for 1996 lottery applicants will be dependent upon satisfactory completion of these projects.

Authority: 7 U.S.C. 1622; 19 U.S.C. 136; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 31st day of July 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–19185 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Inland Native Fish Strategy

ACTION: Notice of decision on the Inland Native Fish Strategy Environmental Assessment and Finding of No Significant Impact.

SUMMARY: In the March 14, 1995, **Federal Register** (Vol. 60, No. 49, pp. 13697–13698), notice was given that the Forest Service, in cooperation with the Bureau of Land Management and US Fish and Wildlife Service, was gathering information in order to prepare an Environmental Assessment (EA) for a proposal to protect habitat and populations of native inland fish.

On July 28, 1995, the Regional Foresters for the Northern, Intermountain, and Pacific Northwest regions of the Forest Service announced their decision on the Inland Native Fish Strategy. Based on public comment analysis and internal review, they have decided, with the support of the US Fish and Wildlife Service, to select Alternative D as described in the Environmental Assessment for the Inland Native Fish Strategy.

The Inland Native Fish Strategy covers approximately 25 million acres of National Forest System lands in eastern Washington and Oregon, Idaho, western Montana, and portions of Nevada. The Environmental Assessment for the strategy was distributed to the public in June for a 30-day review. A series of public hearings were held to allow ample opportunity for the public to share their concerns. All comments have been considered and incorporated into the decision.

This decision notice reflects the final decision of the Forest Service. The decision may be appealed in accordance with the provisions identified in the Decision Notice. Copies of the Decision Notice and Finding of No Significant Impact are currently being printed, and will be distributed to the public near the end of August. At that time, legal ads will be published in designated newspapers announcing the availability of the document and the start of the appeal period.

In addition to the Inland Native Fish Strategy effort, the Forest Service is pursuing a cooperative effort with the various states to assure a coordinated multi-agency effort to address inland native fish issues. A proposal was sent to the Governors of Idaho and Montana on June 23, 1995 to develop conservation strategies that could be used to replace this interim management direction with longer term direction working through the Upper Columbia River Basin EIS. Similar proposals will be made to the Governors of Oregon and Washington. As part of this cooperative effort, the Forest Service will actively seek participation of local state fish and game personnel in the development of watershed analysis efforts.

Through review of the public comment, the Forest Service recognizes that the selection of Alternative D will concern many people who felt this alternative provided either too much or not enough protection. Both Alternatives C and E have features that are attractive for longer-term reduction of risk to habitat. The Regional Foresters have directed Inland Native Fish Strategy Team Leader David Wright to develop a strategy to apply the concepts and philosophy of those two alternatives on a limited test basis.

Alternative D will be implemented for all of the areas outside the test watersheds. Application of Alternative D will provide the short-term reduction of risk we desire, while this test of Alternatives C and E will allow the Forest Service to develop the information needed to provide better long-term direction.

FOR FURTHER INFORMATION CONTACT: Questions about the Decision Notice, Finding of No Significant Impact, and Environmental Assessment should be directed to David Wright, Team Leader for the Inland Native Fish Strategy, USDA Forest Service, 3815 Schreiber Way, Coeur d'Alene, ID 83814. Phone: *(208) 765–7223.*

Dated: July 28, 1995.

David J. Wright,

Inland Native Fish Team Leader, USDA Forest Service.

[FR Doc. 95–19228 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

Upper Blue River Watershed: Atoka, Bryan, Johnston, Murray, and Pontotoc Counties, Oklahoma

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969: the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Blue River Watershed; Atoka, Bryan, Johnston, Murray, and Pontotoc Counties, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Robert N. Jones, Acting Executive Director, Natural Resources Conservation Service, 100 USDA Suite 203, Stillwater, Oklahoma 74074–2655, (405) 742–1204.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert N. Jones, Acting Executive Director, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are watershed protection and flood prevention. The planned works of improvement included in this assessment are 42 single-purpose floodwater retarding structures.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert N. Jones.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Robert N. Jones,

Acting Executive Director.

[FR Doc. 95–18353 Filed 8–3–95; 8:45 am]

BILLING CODE 3410–01–M

ASSASSINATION RECORDS REVIEW BOARD

Notice of Formal Determinations

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on July 17 and 18, 1995, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act.) By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the Federal Register within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT:

T. Jeremy Gunn, Acting General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, 600 E Street, NW., Washington, DC 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the *President John F. Kennedy Assassination Records Collection Act of 1992*, 44 U.S.C. 2017.9(c)(3) (1992). On July 17 and 18, 1995, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives. For each document, the number of releases of previously redacted information is noted.

REVIEW BOARD DETERMINATIONS

Record No.	Releases	Status of document	Next review date
FBI Documents			
124–10006–10342	4	Open in full	n/a
124–10023–10234	2	Open in full	n/a
124–10023–10235	2	Open in full	n/a
124–10023–10236	2	Open in full	n/a
124–10023–10237	4	Open in full	n/a
124–10023–10238	1	Open in full	n/a
124–10035–10065	4	Open in full	n/a
124–10070–10354	8	Open in full	n/a
124–10108–10142	8	Open in full	n/a
124–10119–10078	5	Open in full	n/a
124–10170–10064	4	Open in full	n/a
124–10184–10256	8	Open in full	n/a
124–10230–10425	2	Open in full	n/a
124–10232–10345	4	Open in full	n/a
124–10243–10367	4	Open in full	n/a

REVIEW BOARD DETERMINATIONS—Continued

Record No.	Releases	Status of document	Next review date
124–10244–10077	4	Open in full	n/a
CIA Documents			
104–10007–10152	11	Open in full	n/a
104–10008–10116	4	Open in full	n/a

Dated: July 31, 1995.

David G. Marwell,

Executive Director.

[FR Doc. 95–19196 Filed 8–3–95; 8:45 am]

BILLING CODE 6820–TD–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway; 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 May 15, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 25886) the notice of initiation of the administrative review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway. This review has now been terminated as a result of the withdrawal by the respondent of its request for the review.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Todd Peterson, 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: (202) 482–4195.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1995, Skaarfish Group A/S requested an administrative review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway for the period April 1, 1994 through March 31, 1995, pursuant to 19 CFR 353.22(a)(2) (1994). On May 15, 1995, the Department published in the **Federal Register** (60 FR 25886) the notice of initiation of that administrative review.

Skaarfish Group AS timely withdrew its request for a review on July 21, 1995, pursuant to 19 CFR 353.22(a)(5). As a result, the Department has terminated the review.

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: July 28, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–19269 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–807]

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 8, 1995, the Department of Commerce (the Department) published a notice of preliminary results of its administrative review of the antidumping duty order on industrial belts and components thereof, whether cured or uncured (industrial belts), from Japan. This review covers one manufacturer/exporter during the period June 1, 1993, through May 31, 1994.

We gave interested parties the opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have not changed the dumping margin from those presented in our preliminary results.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Zev Primor, 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 (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

On May 8, 1995, the Department published in the **Federal Register** (60 FR 22561) the preliminary results of the 1993–94 (fifth) administrative review of the antidumping duty order on industrial belts from Japan (54 FR 25314, June 14, 1989). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of industrial belts and components and parts thereof, whether cured or uncured, from Japan. These products include V-belts, synchronous belts, and other industrial belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loops) belts, or in belting in lengths or links. This review excludes conveyor belts and automotive belts, as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

During the period of review the merchandise was classifiable under Harmonized Tariff Schedule (HTS) subheadings, 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. These HTS subheadings are provided for convenience and U.S.

Customs Service (Customs Service) purposes. Our written description of the scope of the order remains dispositive.

This review covers one Japanese manufacturer and exporter of industrial belts to the United States, Mitsuboshi Belting Limited (MBL), and the period June 1, 1993 through May 31, 1994.

Analysis of the Comments Received

The Department gave interested parties the opportunity to comment on the preliminary results of this administrative review. We received a case brief from MBL, and case and rebuttal briefs from the petitioner, Gates Rubber Company (Gates). We did not receive a request for a hearing.

Comment: MBL acknowledges that the Department's resort to best information available (BIA) is authorized under section 776(c) of the Tariff act, since MBL did not respond to the Department's questionnaire. MBL argues, however, that the Department should use information obtained in the first administrative review (1989–90) as BIA instead of the rate from the original less-than-fair-value (LTFV) investigation. MBL contends that the Department is required to consider the most recent information available in deciding upon a BIA rate. According to MBL, the information provided by the respondent in the first administrative review is the most probative evidence of the current margin because the LTFV margin was based solely on information provided by the petitioner for the period October 1986 through March 1988 while the first review margin is based on information provided by MBL for the period of February 1, 1989 through May 31, 1990.

Furthermore, MBL points out that in two separate actions before the United States Court of International Trade (CIT), it is challenging the Department's choice of BIA in the second administrative review and in the third and fourth administrative reviews. MBL urges the Department to withhold making a final determination as to the applicable BIA in this fifth administrative review until the ongoing litigation is resolved.

Gates argues that based on MBL's refusal to cooperate in this review, the Department should apply the highest margin determined for any period to MBL's entries. According to Gates, the Department has previously rejected MBL's argument that information obtained in the first administrative review (1989–90) should be used as BIA and has consistently applied the highest margin determined for any period to MBL's entries. Gates states that the basis for this determination is the fact that MBL refused to respond to the questionnaire. As such, Gates contends, it is well-established under Department practice that the highest prior rate should apply.

Department's Position: Section 776(c) of the Tariff Act requires us to use BIA ''whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation.'' In deciding what to use as BIA, the Department's regulations provide that the Department may take into account whether a party refuses to provide information requested (19 CFR 353.37(b)). MBL's contention that the Department should use the information obtained in the 1989–90 administrative review is contrary to Department policy. When a respondent refuses to cooperate with the Department, it is our policy to assign a dumping margin to that respondent, as BIA, based on the higher of: (1) The highest rate found for any firm in the original LTFV investigation or previous administrative review, or (2) the highest rate found for any firm in the current review (*Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From France et al., Final Results of Antidumping Duty Administrative Reviews,* 57 FR 28360, 28379 (June 24, 1992)). The Department's methodology for assigning BIA has been upheld by the Court of Appeals for the Federal Circuit (CAFC) (see *Allied-Signal Aerospace Co.* v. *United States,* 996 F.2d 1185 (Fed. Cir. 1993), *Krupp Stahl AG et al.* v. *United States,* 822 F. Supp. 789 (CIT 1993)). Because MBL refused to respond to the Department's questionnaire, it was reasonable for the Department to assign to MBL, as BIA, a rate of 93.16 percent, the highest rate found for any firm in the original LTFV investigation. Further, because the law does not provide for extensions of deadlines pending the outcome of court decisions in other proceedings, we have not delayed our final results. In addition, the CIT has held that the Department may base BIA on a rate established in a prior review that is subject to challenge (see *D & L Supply Co.* v. *United States,* Slip Op. 95–92 at 13 (CIT May 15, 1995), citing *D & L Supply Co.,* 841 F. Supp. 1312, 1314 (CIT 1993)). Furthermore, the CIT has recognized the need for the Department to be able to issue final determinations in a timely fashion based upon the rates available at the time the final determination is due (see *D & L Supply Co., et al.* v. *United States,* Slip Op. 95–92 at 15 (CIT May 15, 1995)).

Final Results of the Review

As a result of this administrative review, the Department determines that a dumping margin of 93.16 percent exists for MBL for the period June 1, 1993 though May 31, 1994.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement will be effective upon publication of this notice of final results of review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff act: (1) For subject merchandise exported by MBL, a cash deposit of 93.16 percent; (2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the ''all others'' rate of 93.16 percent established in the LTFV investigation.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with section

751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 28, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–19257 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–836]

Notice of Postponement of Preliminary Determination: Antidumping Duty Investigation of Polyvinyl Alcohol From Japan

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

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch, Dorothy Tomaszewski or Erik Warga, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–3773, (202) 482–0631, or (202) 482–0922, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

Postponement of Preliminary Determination

On July 21, 1995, petitioner, Air Products and Chemicals Inc., made a timely request that the Department of Commerce (''the Department'') postpone until October 2, 1995, its preliminary determination in this proceeding. Accordingly, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930 (''the Act''), we have done so.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: August 1, 1995.

Barbara R. Stafford.

Deputy Assistant Secretary for Investigations, Import Administration.

[FR Doc. 95–19261 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[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 February 15, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 8629) the notice of initiation of the administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China. This review has now been terminated as a result of the withdrawal by the petitioner of its request for the review.

EFFECTIVE DATE: August 4, 1995.

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, NW., Washington, DC 20230, telephone: (202) 482–4474.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 1995, Carus Chemical Company (Carus) requested an administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China for the period January 1, 1994 through December 31, 1994, pursuant to 19 CFR 353.22(a)(1)(1994). On February 15, 1995, the Department published in the **Federal Register** (60 FR 8629) the notice of initiation of that administrative review.

Carus timely withdrew its request for a review on May 16, 1995, pursuant to 19 CFR 353.22(a)(5). As a result, the Department has terminated the review.

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: July 28, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–19270 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–804]

Sparklers From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioners, the Elkton Sparkler Company and the Diamond Sparkler Company, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on sparklers from the People's Republic of China (PRC). The review was requested for one manufacturer, Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch (Guangxi). The review covers the period June 1, 1993 through May 31, 1994.

As a result of this review, we have preliminarily determined to assess an antidumping duty of 93.54 percent on the merchandise subject to the review. Interested parties are invited to comment on these preliminary results of the review.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1991, the Department published in the **Federal Register** the antidumping duty order on sparklers from the PRC (56 FR 27946). On June 7, 1994, the Department published a notice in the **Federal Register** notifying interested parties of the opportunity to request an administrative review of sparklers from the PRC (58 FR 31941). On June 23, 1994, the petitioners requested, in accordance with 19 CFR 353.22(a), that we conduct an administrative review of exports to the United States by Guangxi, for the period June 1, 1993 through May 31, 1994. We published a notice of initiation of the antidumping duty administrative review on July 15, 1994 (58 FR 39007).

The initiation notice indicated that the review would cover Guangxi and would cover conditionally all other exporters of this merchandise. The Department is now conducting a review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this administrative review are sparklers from the PRC. Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Sparklers are currently classifiable

under the Harmonized Tariff System (HTS) subheading 3604.10.00. The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of this proceeding.

Best Information Available

On July 20, 1994, we mailed Guangxi a questionnaire explaining the review procedures. In addition, a short questionnaire was sent to Guangxi, the Guangxi Zhuang Autonomous Region People's Government, the Embassy of the People's Republic of China, the Guangxi Foreign Economic Relations and Trade Commission and the Guangxi People's Government-Beijing Office. This questionnaire sought to ascertain whether Guangxi shall be entitled to a separate rate by demonstrating both *de jure* and *de facto* absence of central government control with respect to exports.

In addition, the questionnaire states:

> [b]ecause we consider the PRC to be a non-market economy for the purposes of this review, we will presume that each company that exported the subject merchandise during the period of review (POR) is owned or controlled by the PRC government until evidence is placed on the record that demonstrates otherwise. Absent evidence to the contrary, we will consider a single antidumping duty rate to be appropriate for all exporters. However, if a company can demonstrate an absence of central government control with respect to pricing exports, both in law and in fact, it will be entitled to a rate separate from the rate for other PRC firms.

The questionnaires, which covered exports to the United States for the period of review (POR), were due on August 23, 1994. We did not receive a response from any party by the due date.

Furthermore, we had previously asked Skypak International Express (TNT) to trace the mailing and verify Guangxi's receipt of the document. On August 3, 1994, TNT's delivery office in Hong Kong confirmed that the questionnaire was accepted by a representative of Guangxi on August 2, 1994. Because we received no response and have not been contacted by Guangxi or any other respondent, we preliminarily determine that Guangxi is no longer entitled to a separate rate, as absence of central government control with regard to exports was not demonstrated. Therefore, in accordance with section 776(c) of the Act, we are using the best information available (BIA) as the basis for determining a dumping margin for all entries into the United States of the subject merchandise during the POR.

In determining what to use as BIA, the Department follows a two-tiered methodology whereby the Department normally assigns lower margins to those respondents who cooperate in a review, and margins based on more adverse assumptions for those respondents who do not cooperate in a review.

In accordance with our BIA methodology for uncooperative respondents, we assign as BIA the higher of: (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less than fair value (LTFV) investigation or prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin (*see Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et. al.* (57 FR 28379, June 24, 1992)).

This methodology has been upheld by the U.S. Court of Appeals for the Federal Circuit (*see Allied-Signal Aerospace Co.* v. *the United States, 996 F.2nd 1185* (CAFC 1993); *see also Krupp Stahl Ag. et. al.* v. *the United States, 822 F. Supp. 789 (CIT 1993)). Given that Guangxi did not respond to the Department's questionnaires, we find that Guangxi has not cooperated in this review.*

In accordance with our methodology we have used as BIA the highest rate established in the remand of the LTFV final determination (58 FR 53708, July 29, 1993), the PRC country-wide rate of 93.54 percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the dumping margin to be the following:

Manufacturer/exporter	Time period	Margin (percent)
PRC country-wide rate	6/1/93–5/31/94	93.54

Interested parties to this proceeding may request disclosure within 5 days of publication of this notice and may request a hearing within 10 days of publication. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs or comments.

Upon completion of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of notice of final results of administrative review for all shipments of sparklers from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Guangxi will be the PRC country-wide rate as stated above; (2) for previously reviewed or investigated companies that received separate rates not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters, the cash deposit rate will be the PRC country-wide rate of 93.54 percent, the rate established on remand of the LTFV final determination; and (4) the cash deposit rate for any non-PRC exporter will be the rate established for that firm; if a non-PRC exporter does not have its own separate rate, the deposit rate for that firm's shipments will be the rate applicable to the PRC supplier of that exporter. In all cases, the rate applicable to a firm normally should change only as a result of a review of that firm, except in instances of change of ownership.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated July 28, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–19260 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–351–406]

Certain Agricultural Tillage Tools From Brazil; Preliminary Results of Countervailing Duty Administrative Review

July 28, 1995.

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

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain agricultural tillage tools from Brazil. We preliminarily determine the net subsidy to be zero for all companies for the period January 1, 1993 through December 31, 1993. If the final results remain the same as these preliminary results; the Department intends to instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright and Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1985, the Department published in the **Federal Register** (50 FR 42743) the countervailing duty order on certain agricultural tillage tools from Brazil. On October 7, 1994, the Department published a notice of ''Opportunity to Request an Administrative Review'' (59 FR 51166) of this countervailing duty order. We received a timely request for review from Marchesan Implementos Argicolas, S.A. a Brazilian producer of the subject merchandise and a respondent, and Agritech Trading Company, an importer of the subject merchandise.

We initiated the review, covering the period January 1, 1993 to December 31, 1993, on November 14, 1994 (59 FR 56459). The review covers four manufacturers/exporters of the subject merchandise and four programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

The merchandise subject to this review (hereinafter ''subject merchandise'') is certain round shaped agricultural tillage tools (discs) with plain or notched edges, such as colters and furrow-opener blades. The products covered in this review are currently classifiable under the following item numbers of the Harmonized Tariff Schedule of the United States (HTSUS): 8432.21.00, 8432.29.00, 8432.80.00 and 8432.90.00. The HTSUS subheadings are provided for convenience and Customs purpose. The written description remains dispositive.

Analysis of Programs

Programs Preliminarily Found Not to Be Used

We examined the following programs and preliminarily determine that the respondents did not use them during the review period:

A. Preferential Financing under FINEP.

B. Preferential Financing for Industrial Enterprises by the Banco de Brasil (FST and EGF loans).

C. Accelerated Depreciation for Brazilian-made Capital Goods.

D. Preferential Financing under PROEX (Formerly under Resolution 68 and 509 through FINEX).

Preliminary Results of Review

For the period January 1, 1993 through December 31, 1993, we preliminarily determine the net subsidy to be zero for all companies. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U. S. Customs Service to assess the following countervailing duties:

Manufacturer/exporter	Rate
All companies	Zero.

The Department also intends to instruct the U. S. Customs Service to collect zero cash deposits of estimated countervailing duties on all shipments of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after the date of Publication of the final results of this review.

Parties to the proceeding may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit written arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due under section 355.38(c). The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 28, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–19259 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–559–802]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof (AFBs) From Singapore; Preliminary Results of Countervailing Duty Administrative Reviews

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

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) is conducting two administrative reviews of the

countervailing duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from Singapore. We preliminarily determine the net subsidy to be zero for the Minebea group of companies (Pelmec Industries (Pte.) Ltd. (Pelmec), NMB Singapore Ltd. (NMB), and Minebea Co., Ltd. Singapore Branch (MSB)) and 9.11 percent *ad valorem* for all other companies for the periods January 1, 1992, through December 31, 1992, and January 1, 1993, through December 31, 1993. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Melanie Brown, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1989, the Department published in the **Federal Register** (54 FR 19125) the countervailing duty orders on AFBs from Singapore. On April 28, 1993, and May 4, 1994, the Department published in the **Federal Register** notices of ''Opportunity to Request Administrative Review'' (58 FR 25802 and 59 FR 23051–52) of these countervailing duty orders. We received a timely request for review for the period January 1, 1992, through December 31, 1992, from the petitioner, the Torrington Company. We also received timely requests for review for the period January 1, 1993, through December 31, 1993, from both the petitioner, the Torrington Company, and the Minebea group of companies, which accounts for most of the exports of subject merchandise from Singapore to the United States (*see* section on *Best Information Available*, below).

We initiated the 1992 and 1993 reviews on June 25, 1993 (58 FR 34414) and June 15, 1994 (59 FR 30770), respectively. We conducted verifications of the questionnaire responses for both the 1992 and 1993 reviews. The 1992 review covers three related manufacturers/exporters of the subject merchandise and 16 programs; the 1993 review covers the same manufacturers/exporters of the subject merchandise and 17 programs.

Applicable Statute and Regulations

The Department is conducting these administrative reviews in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Reviews

Imports covered by these reviews are shipments of antifriction bearings (other than tapered roller bearings) and parts thereof. The subject merchandise covers five separate classes or kinds of merchandise, each of which is described in detail in Appendix A to this notice. The *Harmonized Tariff Schedule* item numbers listed in Appendix A are provided for convenience and Customs purposes. The written descriptions remain dispositive.

On October 30, 1992, the Department received a request for a scope determination from Sundstrand Pacific (Sundstrand). Specifically, Sundstrand asked the Department to find its part number 742973, an outer-race of the cylindrical roller bearing, not within the scopes of the countervailing duty orders. The request was subsequently evaluated in accordance with section 355.29(i)(1) of the Department's regulations. On February 4, 1993, the Department determined that the product in question was within the scope of the order on cylindrical roller bearings (58 FR 27542, 27543; May 10, 1993). Because the product descriptions detailed in Sundstrand's request for a scope determination were dispositive as to whether part number 742973 was within the scope of the order on cylindrical roller bearings, the Department did not initiate a formal scope inquiry. Accordingly, the U.S. Customs Service has been instructed to continue to suspend liquidation of part 742973 exported by Sundstrand.

Best Information Available

During the investigation, Sundstrand, an exporter of the subject merchandise which was identified by the Government of Singapore (GOS), refused to participate, and consequently received a rate based entirely on best information available (BIA)(*see Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Antifriction Bearings (other than Tapered Roller Bearings) and Parts thereof from Singapore* (54 FR 19125, 19126; May 3, 1989)). Section 776(c) of the Act requires the Department to use BIA ''whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation * * *'' *See also* 19 CFR § 355.37. In determining what rate to use as BIA, the Department follows a two-tiered methodology. The Department assigns lower rates to those respondents who cooperate in an administrative review (tier two) and rates based on more adverse assumptions for respondents who do not cooperate in the review, or who significantly impede the proceeding (tier one). *Cf. Allied Signal Aerospace Co.* v. *United States*, 996 F. 2d 1185 (Fed. Cir. 1993), *aff'd*, 28 F. 3d 1188, *cert. denied*, 1995 U.S. Lexis 100 (1995) (*Allied-Signal*).

In these reviews, only the three related Minebea companies, which account for the majority of Singaporean exports to the United States of the subject merchandise, responded to the Department's questionnaires. Sundstrand did not respond to our questionnaires. Furthermore, during the course of the 1992 verification of the GOS questionnaire response, we examined a list of companies which exported subject merchandise to the United States but, for reasons unknown to the Department, did not respond to our questionnaire (*see* the April 8, 1994, Memorandum to Barbara E. Tillman Regarding *Verification of Questionnaire Response in 1992 Administrative Review of CVD Order on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore—Covering the Period January 1, 1992 through December 31, 1992*, at 4, which is on file in the Central Records Unit, Room B–099 of the Department of Commerce). The GOS did not provide any information regarding Sundstrand or the other companies' sales or exports of the subject merchandise, or the extent to which Sundstrand or these companies participated in the programs reviewed. During the course of the 1993 verification of the GOS questionnaire response, we again examined a list of companies which exported subject merchandise to the United States but did not respond to our questionnaire (*see* the April 9, 1995, Memorandum to Barbara E. Tillman Regarding *Verification of Questionnaire Responses in the 1993 Administrative Review of Countervailing Duty Order on Antifriction Bearings (Other Than Tapered Roller Bearings) From Singapore*, at 3, which is on file in the Central Records Unit, Room B–099 of the Department of Commerce). Again,

the GOS did not provide any information regarding Sundstrand or the other companies' sales or exports of the subject merchandise, or the extent to which they participated in the programs reviewed. Therefore, in accordance with section 776 of the Act and *Allied-Signal,* we are assigning to Sundstrand and all other non-respondent companies a first-tier uncooperative BIA rate for both periods of review. The rate we are applying for the periods January 1, 1992, through December 31, 1992, and January 1, 1993, through December 31, 1993, is 9.11 percent *ad valorem*. This rate is the rate that has been assigned to Sundstrand in each review since the first administrative review (*see Final Results of Countervailing Duty Administrative Review: Antifriction Bearings (other than Tapered Roller Bearings) and Parts thereof from Singapore* (56 FR 26384; June 7, 1991)).

Calculation Methodology for Assessment and Cash Deposit Purposes

In accordance with our standard practice, for both periods of review, we calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. *See Preliminary Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom,* 60 FR 24833, 24834 (May 10, 1995). We then weight-averaged the rate received by each company using as the weight the company's share of total exports from Singapore to the United States of subject merchandise, including all companies, even those with *de minimis* and zero rates. To determine the value of exports for the Minebea group of companies, we added the reported total exports of subject merchandise to the United States by the two related producers/exporters, NMB and Pelmec, to the total net mark-up on exports of subject merchandise to the United States reported by the related trading company respondent, MSB. To determine the value of exports for Sundstrand and all other non-respondent companies based on BIA (*see Best Information Available,* above), we subtracted the value of the Minebea companies' exports of subject merchandise to the United States from the total value of exports of subject merchandise to the United States, as reported by the GOS.

We then summed the individual weight-averaged rates to determine the subsidy from all programs benefitting Singaporean exports of subject merchandise to the United States. Because the country-wide rate calculated using this methodology was above *de minimis,* as defined by 19 CFR § 355.7, for both periods of review, we next examined the net subsidy rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR § 355.22(d)(3).

For both periods of review, we found that the Minebea companies and the non-respondent companies had significantly different net subsidy rates (zero and 9.11 percent *ad valorem,* respectively); therefore all companies are treated separately for assessment and cash deposit purposes for both periods.

Analysis of Programs

I. Programs Preliminarily Determined Not To Confer Subsidies Investment Allowances Under Part X of the Economic Expansion Incentives Act (EEIA)

Pelmec and NMB received tax deductions under this program during both periods of review, which petitioners have alleged are countervailable. The Investment Allowance program was originally established under Part VIA of the EEIA in 1979 to encourage investment in Singapore. The Department determined in 1985 that the investment allowance program under Part VIA of the EEIA was not countervailable (*see Final Negative Countervailing Duty Determination; Certain Textile Mill Products and Apparel from Singapore,* 50 FR 9840 (March 12, 1985) (*Textiles*)). After the Department's determination in *Textiles,* the EEIA was amended so that the investment allowance program was included under Part X of the EEIA (*see Final Negative Countervailing Duty Determination: Carbon Steel Wire Rod from Singapore* (53 FR 16304; May 6, 1988) (*Wire Rod*)). Because the investment allowance program has not been examined since the EEIA was amended, we are doing so in the 1992 review. (For a more detailed explanation of the Department's decision to examine Part X, see the December 30, 1994, Memorandum to Barbara E. Tillman Regarding *1992 and 1993 Administrative Reviews of Antifriction Bearings (AFBs) from Singapore—Investment Allowance Program, Part X of the Economic Expansion Incentives Act (EEIA),* on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce.)

Under Part X, companies are granted a tax deduction for up to 50 percent of the investment in fixed assets made by the company over the course of a project. The EEIA authorizes allowances for a project in any of the following areas:

a. for the manufacture or increased manufacture of any product;

b. for the provision of specialized engineering or technical services;

c. for research and development;

d. for construction operations;

e. for reducing the consumption of potable water;

f. for services listed under section 16 of the EEIA; or

g. for the promotion of the tourist industry (other than a hotel) in Singapore.

If an investment project falls within one of the above categories, companies will receive an allowance if the investment meets one of the following criteria:

- the investment results in greater efficiency in resource utilization;
- the investment introduces a new technology into an existing industry;
- the project is significantly more efficient in resource utilization than the industry average; or
- the project produces parts and components used by other industries.

We verified that, under each of the eligible project areas, all companies investing in new plant and equipment are eligible to participate in the program and that any such company which meets the above criteria will be approved to receive the investment allowance. Moreover, we found no evidence that the program is regional or that company approval is contingent on export. Finally, we found no evidence that the program is limited to a specific enterprise or industry, or a group of enterprises or industries. There are a large number and wide variety of users of the program. The range of industries that received investment allowances includes, among others, food & beverage, textiles, chemicals, steel, paper, minerals, electronics, plastics, furniture, petroleum/coal, rubber, and numerous service industries, including hotels, air transport, banking, real estate, accounting, information technology, medical/health, and photography. Moreover, the AFBs producers are neither a dominant nor disproportionate recipient of the investment allowances, and there is no evidence that the GOS exercises discretion, in general or across industries, in conferring benefits. Thus, we preliminarily determine that this program is not countervailable within the meaning of section 701(a) of the Act. (A detailed specificity analysis is set forth in the Memorandum dated July 28, 1995, *1992 Administrative Reviews of the Countervailing Duty Orders on Antifriction Bearings and Parts Thereof*

from Singapore: Part X of the EEIA—Investment Allowances which is on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

II. Programs Preliminarily Determined Not To Be Used

We examined the following programs and preliminarily determine that the Minebea group of companies did not apply for or receive benefits under these programs during either the 1992 review period or the 1993 review period:

A. Production for Export under Part VI of the EEIA
B. Monetary Authority of Singapore Rediscount Facility
C. Other Tax Incentives under the EEIA
- Part IV: Expansion of Established Enterprises
- Part VII: International Trade Incentives
- Part VIII: Foreign Loans for Productive Equipment
- Part IX: Royalties, Fees and Development Contributions
- Part XI: Warehousing and Servicing Incentives

D. Incentives Under the Income Tax Act
- Sections 14B and 14C: Double Deduction of Export Promotion Expenses
- Section 14E: Double Deduction for Research and Development
- Section 19B: Write-Offs of Payments for ''Know-How'', Patents and Manufacturing Licenses

E. Programs Administered by the Economic Development Board
- Capital Assistance Scheme
- Productive Development Assistance Scheme
- Initiatives in New Technology Program

F. Program Administered by the National Science Technology Board: Research & Development Assistance Scheme

In the 1993 review, we received a submission from the Torrington Company, the petitioner in this proceeding, alleging that post-pioneer status under Part IIIA of the EEIA might have been granted to producers of the subject merchandise. We examined that program and preliminarily determine that the producers/exporters of the subject merchandise did not apply for or receive benefits under that program and were not granted post-pioneer status.

Preliminary Results of Reviews

For the periods January 1, 1992, through December 31, 1992, and January 1, 1993, through December 31, 1993, we preliminarily determine the net subsidy to be zero for the Minebea group of companies (Pelmec, NMB, and MSB) and 9.11 percent *ad valorem* for all other companies (*see Calculation Methodology for Assessment and Cash Deposit Purposes,* above).

If the final results of these reviews remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess the following countervailing duties for the period January 1, 1992, through December 31, 1993:

Manufacturer/Exporter	Rate (percent)
Minebea companies (Pelmec, NMB, and MSB)	0.00
All Other Companies	9.11

The Department also intends to instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from the Minebea companies (Pelmec, NMB, and MSB), and 9.11 percent of the f.o.b. invoice price on all shipments of the subject merchandise from all other companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit written arguments in these proceedings are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR § 355.38(e).

Representatives of parties to these proceedings may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due. The Department will publish the final results of these administrative reviews including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Act (19 U.S. C. § 1675(a)(1)) and 19 CFR § 355.22.

Dated: July 28, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Appendix A

Scope of The Reviews

The products covered by these reviews, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate ''classes or kinds'' of merchandise as outlined below.

(1) Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Such merchandise is classifiable under the following *Harmonized Tariff Schedule* (HTS) item numbers: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(2) Spherical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ spherical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.30.00, 8482.80.00, 8482.91.00, 8482.99.50, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(3) Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(4) Needle Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ needle rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.40.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(5) Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof: These products include all spherical plain bearings which do not employ rolling elements and include spherical plain rod ends. Such merchandise is classifiable under the following HTS item numbers: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, and 8708.99.50.

These reviews cover all of the subject bearings and parts thereof outlined above

with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those which will be subject to heat treatment after importation.

[FR Doc. 95–19258 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–003]

Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On May 18, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on ceramic tile from Mexico (60 FR 267177) for the period January 1, 1993 through December 31, 1993. We have now completed this review and determine the total bounty or grant to be 0.48 percent *ad valorem* for all companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*. We will instruct the U.S. Customs Service to assess countervailing assess countervailing duties as indicated above.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 1995, the Depar**Federal Register** (60 FR 26717) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20012; May 10, 1982). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On June 19, 1995, a case brief was submitted by Ceramica Regiomontana, S.A., a producer of the subject merchandise which exported ceramic tile to the United States during the review period (respondent).

The review period is January 1, 1993, through December 31, 1993. This review involves 40 companies and the following programs:

(1) BANCOMEXT Financing for Exporters;

(2) The Program for Temporary Importation of Products used in the Production of Exports (PITEX);

(3) NAFINSA Long-Term Loans

(4) Other BANCOMEXT preferential financing;

(5) Other Dollar-Denominated Financing Programs;

(6) Fiscal Promotion Certificates (CEPROFI);

(7) Import duty reductions and exemptions;

(8) State tax incentives;

(9) Article 15 Loans;

(10) NAFINSA FONEI-type financing; and

(11) NAFINSA FOGAIN-type financing.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Review

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 6907.10.0000, 6907.90.0000, 6908.10.0000, and 6908.90.0000. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the total bounty or grant on a country-wide basis by first calculating the bounty or grant for each company subject to the administrative review. We then weight-averaged the rate received by each company, even those with *de minimis* and zero rates, using as the weight its share of total Mexican exports to the United States of subject merchandise. We then summed the individual companies' weighted-average rates to determine the bounty or grant from all programs benefitting exports of subject merchandise to the United States. Since the country-wide rate calculated using this methodology was *de minimis*, as defined by 19 CFR § 355.7, no further calculations were necessary.

Analysis of Comments

Comment 1: As in past reviews, Ceramica Regiomontana contends that the Department does not have the legal authority to assess countervailing duties on ceramic tile from Mexico and must terminate the review. Effective April 23, 1985, the date of the ''Understanding Between the United States and Mexico regarding Subsidies and Countervailing Duties'' (the Understanding), Mexico became a ''country under the Agreement.'' Therefore, Ceramica Regiomontana argues that 19 U.S.C. 1671 requires an affirmative injury determination as a prerequisite to the imposition of countervailing duties on any Mexican merchandise imported on or after April 23, 1985. Furthermore, Ceramica Regiomontana argues that the only applicable statutory authority for this review would be 19 U.S.C. 1303; however, because Mexico became a country under the Agreement, the provisions of section 1303 could no longer apply. Therefore, Ceramica Regiomontana maintains the Department has no authority to conduct this review and the review should be terminated.

Department's Position: We fully addressed this issue in a previous administrative review of this countervailing duty order. *See Ceramic Tile from Mexico; Final Results of Countervailing Duty Administrative Review* (55 FR 50744; December 10, 1990). The CIT and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) have sustained the Department's legal position that Mexican imports subject to an outstanding countervailing duty order already in effect when Mexico entered into the Understanding are not entitled to an injury test pursuant to section 701 of the Act and paragraph 5 of the Understanding (*Ceramica Regiomontana, S.A., et. al v. United States,* Slip Op. 96–78, Court No. 89–06–00323 (May 5, 1994) (*Ceramica Regiomontana''*); *Cementos Anajuac del Golfo, S.A. v. U.S.,* 879 F.2d 847 (Fed. Cir. 1989), cert. denied, 110 S.CT. 1318 (1989)). The countervailing duty order on ceramic tile from Mexico was published prior to Mexico's entering into the Understanding and, therefore, imports of ceramic tile are not entitled

to an injury test pursuant to section 701 of the Act.

Comment 2: As in past administrative reviews, Ceramica Regiomontana contends that the Department incorrectly treated the benefit from the PITEX program as a grant. According to Ceramica Regiomontana, PITEX benefits should be calculated as interest-free loans similar to the Department's treatment of loan duty deferrals under a Peruvian program in *Cotton Sheeting and Sateen from Peru; Final Results of Administrative Review of Countervailing Duty Order* (49 FR 34542).

Ceramica Regiomontana contends that the Department provides no legal justification for refusing to treat PITEX as an interest-free loan rather than a grant in *Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review* (56 FR 50858). Furthermore, Ceramica Regiomontana argues that the Department bases its refusal to calculate PITEX as an interest-free loan on the difficulty of doing the calculation. Ceramica Regiomontana maintains that although there is no certainty whether a company will ultimately be exempt from payment of all or a portion of the duty, the deferral should be treated as a loan rather than a grant in accordance with legal requirements.

Department's Position: We fully addressed this issue in the previous administrative review of this case. *See Ceramic Tile from Mexico; Final Results of Countervailing Duty Administrative Review* (60 FR 19022; April 14, 1995). We stated that, under PITEX, an exporter may temporarily import machinery for five years. At the end of five years, the exporter can renew the temporary stay on an annual basis indefinitely. Since payment of import duties upon conversion to permanent import status is based on the depreciated value of the equipment at the time it is converted to permanent import status, the exporter can on an annual basis continue the temporary import status after the initial five year period until the depreciated value of the equipment is zero and no import duties are owed. Therefore, duty exemptions under PITEX are properly treated as grants, and we expensed them in full at the time of importation, when the exporters otherwise would have paid duties on the imported machinery. Id.; *Final Negative Countervailing Duty Determination; Silicon Metal From Brazil* (56 FR 26988). Ceramica Regiomontana has presented us with no new evidence or arguments on this issue.

Comment 3: Ceramica Regiomontana argues that the calculation of the PITEX net subsidy is incorrect because the Department improperly divided the PITEX benefit by each company's total exports. Ceramica Regiomontana contends that, since the machinery imported under the PITEX program may be used to produce products for both the export and domestic markets, the benefits from the program should be divided by total sales rather than by total exports. Furthermore, Ceramica Regiomontana argues that the program does not limit the use of imported machinery to production for export products only. According to Ceramica Regiomontana, machinery imported by the company is used for production of merchandise for both export and domestic markets.

Ceramica Regiomontana claims that the Department's allocation method in PITEX is incorrect because it does not measure the benefit of the subsidy to the recipient and the proper method of allocation would be based on total sales.

Department's Position: We disagree. In order to meet the eligibility criteria for the PITEX program, a company is required to have a proven export record, and to use the imported merchandise (both raw materials and equipment) in the production of goods for export. Since receipt of benefits under PITEX is tied to the company's exports, thereby making the program an export subsidy, the proper basis for allocation of these benefits is total exports, as opposed to total sales. *See Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review* (56 FR 12175, 12178; March 22, 1991).

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 0.48 percent *ad valorem* for all companies. In accordance with 19 CFR § 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis.*

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from all companies on or after January 1, 1993, and on or before December 31, 1993.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties at a zero rate, as provided by section 751(a)(1) of the Act, on shipments of this merchandise from all companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), 19 CFR § 355.22 and 19 CFR 355.25.

Dated: July 28, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–19253 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[(C–428–812)]

Certain Lead and Bismuth Carbon Steel Products From Germany; Termination of Countervailing Duty Administrative Review

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

ACTION: Notice of Termination of Countervailing Duty Administration Review (01/01/94–12/31/94).

SUMMARY: The Department of Commerce (the Department) is terminating the countervailing administrative review of certain hot-rolled lead and bismuth carbon steel products from Germany initiated on April 14, 1995 (60 FR 19017).

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Robert Copyak, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: On March 7, 1995, the Department published in the **Federal Register** (60 FR 12540) a notice of ''Opportunity to Request Administrative Review'' on the countervailing duty order (58 FR 15325; March 22, 1993) on certain lead and bismuth carbon steel products from Germany for the period January 1, 1994 through December 31, 1994. On March 31, 1995, Inland Steel Bar Co. and USS/Kobe Steel Co., domestic producers, requested an administrative review of the subject countervailing duty order. No other interested party requested the review.

On April 14, 1995, the Department published a notice of initiation of a review of the order (60 FR 19017). On May 31, 1995, Inland Steel Bar Co. and USS/Kobe Steel Co. withdrew their requests for an administrative review. Because the requests for withdrawal were timely pursuant to 19 CFR 355.22(a)(3), the Department is terminating this review.

This notice is published in accordance with 19 CFR 355.22(a)(3).

Dated: July 26, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–19254 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–533–807]

Sulfanilic Acid From India; Termination of Countervailing Duty Administrative Review

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

ACTION: Notice of Termination of Countervailing Duty Administrative Review (01/01/94–12/31/94).

SUMMARY: The Department of Commerce (the Department) is terminating the countervailing duty administrative review of the order on sulfanilic acid from India initiated on April 14, 1995 (60 FR 19017).

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Lorenza Olivas, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: On March 7, 1995 the Department published in the **Federal Register** (60 FR 12540) a notice of ''Opportunity to Request Administrative Review'' of the countervailing duty order (58 FR 12026; March 2, 1993) on sulfanilic acid from India for the period January 1, 1994 through December 31, 1994. On March 29, 1995, Kokan Synthetics and M/S Kay International From India requested that the Department conduct a review of the subject countervailing duty order. No other interested party requested a review.

On April 14, 1995, the Department published a notice of initiation of a review of the order (60 FR 19017). On June 26, 1995, Kokan Synthetics and M/S Kay International withdrew their request for an administrative review. Because the request for withdrawal was timely pursuant to 19 CFR 355.22(a)(3), the Department is terminating this review.

This notice is published in accordance with 19 CFR 355.22(a)(5).

Dated: July 28, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–19256 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–357–002]

Wool From Argentina; Termination of Countervailing Duty Administrative Review

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

ACTION: Notice of Termination of Countervailing Duty Administration Review (01/01/94–12/31/94).

SUMMARY: The Department of Commerce (the Department) is terminating the countervailing duty administrative review of wool from Argentina initiated on May 15, 1995 (60 FR 25885).

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Lorenza Olivas, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: On March 31, 1995, the Department published in the **Federal Register** (60 FR 16620) a notice of intent to revoke the countervailing duty order on wool from Argentina (48 FR 14423; April 4, 1983)). On April 4, 1995, the Department published a notice of ''Opportunity to Request Administrative Review'' (60 FR 17052) of the countervailing duty order on wool from Argentina for the period January 1, 1994 through December 31, 1994. On April 21, 1995, the American Sheep Industry Association (ASIA), petitioner, requested that the Department conduct an administrative review of the countervailing duty order on wool from Argentina in response to the Department's notice of intent to revoke the order pursuant to section 355.25(d)(4)(iii) of the Department regulations. No other interested party requested the review. On May 15, 1995, the Department published a notice of initiation of a review of the order (60 FR 19017). On July 3, 1995, the Department published a notice of ''Determination Not to Revoke Countervailing Duty Orders'' on wool from Argentina (60 FR 34518).

On June 30, 1995, the ASIA clarified its April 21, 1995 request for an administrative review. ASIA asked that its April 21, 1995 request be considered an objection to the Department's notice of intent to revoke the order, and withdrew its request for an administrative review. For this reason and because the request for withdrawal was timely pursuant to 19 CFR 355.22 (a)(3)(a), the Department is terminating this review.

The notice is published in accordance with 19 CFR 355.22(a)(3).

Dated: July 28, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–19255 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DS–P

North American Free-Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On July 26, 1995 Tubos de Acero de Mexico, S.A. (TAMSA) filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Determination of Sales at Less Than Fair Value made by the International Trade Administration respecting Oil Country Tubular Goods from Mexico. This determination was published in the **Federal Register** on June 28, 1995 (60 FR 33567). The NAFTA Secretariat has assigned Case Number USA–95–1904–04 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United

States, the Government of Canada and the Government of Mexico established Rules of Procedure for Article 1904 Binational Panel Reviews (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter will be conducted in accordance with these Rules.

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on July 26, 1995, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is August 25, 1995);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is September 11, 1995); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 1, 1995.

James R. Holbein,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 95–19268 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

[I.D. 072795A]

North 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 North Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will meet by teleconference.

DATES: The teleconference will be held on August 17, 1995, beginning at 9:00 a.m. (Alaska Standard Time).

ADDRESSES: Listening stations for the public will be made available in Seattle, Juneau and Anchorage, AK. Please contact the Council office for more information.

Council address: North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: David Witherell, North Pacific Fishery Management Council; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the Environmental Assessment/Regulatory Impact Review of the proposed alternatives for trawl closure areas in Bristol Bay to protect red king crabs. An economic analysis has been incorporated into the revised draft document. If acceptable to the SSC, and, if there are only minor changes, the document will be released for public review on August 25, 1995, allowing for a minimum 30-day review period. The Council is scheduled to take final action on this amendment in September.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, (907) 271–2809, at least 5 working days prior to the meeting date.

Dated: July 28, 1995.

Donald J. Leedy,

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

[FR Doc. 95–19166 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–22–F

Technology Administration

Technology Administration Performance Review Board Membership

July 1995.

The Technology Administration Performance Review Board reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and performance-related pay increases for ST–31904 employees, and makes appropriate recommendations to the Appointing Authority concerning such matters in such a manner as will ensure the fair and equitable treatment of these individuals.

Individuals who are newly appointed by the Appointing Authority to membership on the Technology Administration Performance Review Board are listed below:

Andrew W. Fowell, Chief (C)
Chief, Fire Safety Engineering Division
Building and Fire Research Laboratory
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/97

Robert J. Mayher (C)
Director, Office of Spectrum Plans and Policies
Office of Spectrum Management
National Telecommunications and Information Administration
Washington, DC 20230
Appointment Expires: 12/31/97

Stanley D. Rasberry (C)
Chief, Office of Measurement Services
Technology Services
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/97

The following represents the full membership and expiration dates of the members' appointments to the Technology Administration Performance Review Board General and Limited Groups.

Karl Bell (C)
Deputy Director of Administration
Office of the Director of Administration
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/96

Kelly Carnes (NC)
Deputy Assistant Secretary for Technology Policy
Technology Administration
Washington, DC 20230
Appointment Expires: 12/31/96

Andrew W. Fowell, Chief (C)
Chief, Fire Safety Engineering Division
Building and Fire Research Laboratory
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/97

William W. Fox (C)
Director, Office of Protected Resources
National Marine Fisheries Service
National Oceanic and Atmospheric
Washington, DC 20233
Appointment Expires: 12/31/96

Frederick Johnson (C)
Associate Director for Computing
Computing and Applied Mathematics Laboratory
National Institute of Standards & Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/96

Samuel Kramer (C)
Associate Director

Office of the Director
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/96

Ronald E. Lawson (C)
Assistant Secretary for Technology Policy
National Technical Information Service
Technology Administration
Springfield, VA 22161
Appointment Expires: 12/31/96

Robert J. Mayher (C)
Director, Office of Spectrum Plans and Policies
Office of Spectrum Management
National Telecommunications and Information Administration
Washington, DC 20230
Appointment Expires: 12/31/97

Harry I. McHenry (C)
Chief, Materials Reliability Division
Materials Science and Engineering Laboratory
National Institute of Standards and Technology
Boulder, CO 80303
Appointment Expires: 12/31/96

Robert Scace (C)
Director, Office of Microelectronics Programs
Electronics and Electrical Engineering Laboratory
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/96

Stanley D. Rasberry (C)
Chief, Office of Measurement Services
Technology Services
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/97

Kathryn D. Sullivan (PAS)
Chief Scientist
National Oceanic and Atmospheric Administration
Washington, DC 20230
Appointment Expires: 12/31/96

Rance A. Velapoldi (C)
Chief, Surface and Microanalysis Science Division
Chemical Science and Technology Laboratory
National Institute of Standards and Technology
Gaithersburg, MD 20899
Appointment Expires: 12/31/96.

Dated: July 28, 1995.

Mary L. Good,

Under Secretary for Technology, Technology Administration, Department of Commerce.

[FR Doc. 95–19178 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Rescission of a Request to Consult on Certain Wool Textile Products Produced or Manufactured in the Federative Republic of Brazil

July 31, 1995.

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

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

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 United States Government has decided to rescind the request made on April 26, 1995 to consult on imports of men's and boys' wool coats other than suit type in Category 434. Should it become necessary to discuss this category with the Government of the Federative Republic of Brazil at a later date, 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 59 FR 65531, published on December 20, 1994). Also see 60 FR 27273, published on May 23, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–19262 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DR–F

Increase of a Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Costa Rica

July 31, 1995.

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

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: August 8, 1995.

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 level, 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).

On request of the Government of Costa Rica, the United States Government has agreed to increase the 1995 Guaranteed Access Level (GAL) for Categories 347/348.

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 59 FR 65531, published on December 20, 1994). Also see 59 FR 62717, published on December 6, 1994; and 55 FR 21047, published on May 22, 1990; and 59 FR 62715, published on December 6, 1994.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 31, 1995.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Costa Rica and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 8, 1995, you are directed to increase the current Guaranteed Access Level for the Categories 347/348 to 2,100,000 dozen.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–19264 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits and Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

July 31, 1995.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits and guaranteed access levels.

EFFECTIVE DATE: August 8, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On the request of the Government of the Dominican Republic, the Government of the United States agreed to increase the 1995 guaranteed access levels for Categories 339/639 and 433. Also, the current limit for Category 633 is being increased by application of swing, reducing the limit for Categories 342/642.

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 59 FR 65531, published on December 20, 1994). Also see 60 FR 17321, published on April 5, 1995.

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 Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 31, 1995.

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 March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 8, 1995, you are directed to adjust the limits for the following categories, as provided under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
342/642	537,047 dozen.
633	114,117 dozen.

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

The guaranteed access levels (GALs) for Categories 342/642 and 633 remain unchanged. You are directed also to increase the GALs for the following categories:

Category	Guaranteed access level
339/639	1,350,000 dozen.
433	61,000 dozen.

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. 95–19265 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DR–F

Increase Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Guatemala

July 31, 1995.

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

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: August 8, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this level, 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).

On request of the Government of Guatemala, the Government of the United States has agreed to increase the 1995 guaranteed access level (GAL) for Categories 347/348.

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 59 FR 65531, published on December 20, 1994). Also see 60 FR 14931, published on March 21, 1995.

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

July 31, 1995.

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 March 15, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or

manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 8, 1995, you are directed to increase the guaranteed access level for Categories 347/348 to 1,600,000 dozen.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–19263 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DR–F

Amendment and Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Poland

July 31, 1995.

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

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

EFFECTIVE DATE: August 8, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6718. 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).

Pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), the current limits are being amended for textile products, produced or manufactured in Poland and exported during the period beginning on January 1, 1995 and extending through December 31, 1995. These limits are being amended because Poland is now a member of the World Trade Organization (WTO). Also, the limit for Category 443 is being increased by recrediting 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 59 FR 65531, published on December 20, 1994). Also see 59 FR 62718, published on December 6, 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 Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 31, 1995.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on August 8, 1995, you are directed, pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), to increase the limits for the following categories:

Category	Twelve-month limit [1]
335	157,023 dozen.
338/339	1,691,018 dozen.
410	2,582,128 square meters.
433	18,235 dozen.
434	9,946 dozen.
435	13,014 dozen.
443	204,233 numbers.
611	4,833,291 square meters.
645/646	247,613 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 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. 95–19266 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DR–F

Settlement on an Import Limit and Amendment of Visa Requirements for Certain Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

July 31, 1995.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and amending visa requirements.

EFFECTIVE DATE: August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, 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) 927–5850. 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).

In a Memorandum of Understanding (MOU) dated June 23, 1995, the Governments of the United States and the Democratic Socialist Republic of Sri Lanka agreed, pursuant to Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC), to establish a limit for man-made fiber luggage in Category 670–L for a three year term—June 23, 1995 through December 31, 1995; January 1, 1996 through December 31, 1996; January 1, 1997 through December 31, 1997; and January 1, 1998 through June 22, 1998.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a limit for Category 670–L for the period beginning on June 23, 1995 and extending through December 31, 1995. Also, the visa arrangement is being amended to require a part-category visa for goods in Category 670–L and Category 670–O, produced or manufactured in Sri Lanka and exported from Sri Lanka on and after August 7, 1995. Goods in Category 670 which are exported during the period August 7, 1995 through September 6, 1995 shall be permitted entry if visaed as 670 or the correct part category. Goods exported on and after September 7, 1995 must be accompanied by a 670–L visa or a 670–O visa.

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 59 FR 65531, published on December 20, 1994). Also see 53 FR 34573, published on September 7, 1988; 60 FR 13410, published on March 13, 1995; and 60 FR 27276, published on May 23, 1995.

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 Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 31, 1995.

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

Dear Commissioner: Effective on August 7, 1995, you are directed to cancel the directive issued to you on May 12, 1995, by the Chairman, Committee for the Implementation of Textile Agreements (CITA), directing you to count imports of textile products in Category 670–L [1] for the period beginning on April 27, 1995 and extending through April 26, 1996.

This directive amends, but does not cancel, the directive issued to you on March 7, 1995, by the Chairman of CITA. That directive concerns, among other things, imports of certain cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 7, 1995, you are directed, pursuant to the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing (ATC), and a Memorandum of Understanding dated June 23, 1995 between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka, to establish a limit for man-made fiber textile products in Category 670–L for the period beginning on June 23, 1995 and extending through December 31, 1995 at a level of 3,945,206 kilograms [2].

Textile products in Category 670–L which have been exported to the United States prior to June 23, 1995 shall not be subject to this directive.

Textile products in Category 670–L which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

For visa purposes, you are directed to amend further the directive dated September 1, 1988 to require a part-category visa for 670–L and 670–O for goods produced or manufactured in Sri Lanka and exported from Sri Lanka on and after August 7, 1995. Goods in Category 670 which are exported from Sri Lanka during the period August 7, 1995 through September 6, 1995 may be visaed as Category 670 or the correct part-category. Goods in Category 670 which are exported on and after September 7, 1995 must be visaed as Category 670–L or Category 670–O.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception 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. 95–19267 Filed 8–3–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

[2] The limit has not been adjusted to account for any imports exported after June 22, 1995.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: September 5, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On April 28, May 26, June 2 and 9, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 FR 15535, 20971, 27968, 30523) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Administrative Services, General Services Administration, FSS, National Furniture Center, Crystal Mall Building 4, Arlington, Virginia

Microfilming of EEG Records, Department of Veterans Affairs, William S. Middleton Memorial Veterans Hospital, Madison, Wisconsin.

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48d) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Candle, Illuminating
6260–00–840–5578
Tape, Red
7510–00–NIB–0069 (1'' x 60 yds.)
7510–00–NIB–0070 (2'' x 60 yds.)
7510–00–NIB–0068 (3'' x 60 yds.)
Wood Container
8115–L1–599–7320
8115–L1–599–7920
8115–L1–465–1020
8115–L1–599–8020
8115–L1–599–7220
Cap, Garrison
8410–01–381–5481
8410–01–381–5507
8410–01–381–5521
8410–01–381–5536
8410–01–381–5544
8410–01–381–5559
8410–01–381–5566
8410–01–381–5612
8410–01–381–5627
8410–01–381–5647
8410–01–381–5504

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–19241 Filed 8–3–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List hardwood flag cases to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: September 5, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740

SUPPLEMENTARY INFORMATION: On June 2, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 FR 28781) of proposed addition to the Procurement List.

Comments were received from the current contractor for the flag cases, both Senators from North Carolina, two other members of the State's Congressional delegation, the State's Department of Commerce and its Small Business & Technology Development Center, a county commissioner for one North Carolina county, and the Chambers of Commerce of two other counties. Many of the commenters expressed concern that loss of sales of the flag cases proposed to be added to the Procurement List could severely affect the current contractor, which is a startup business that has not yet shown a profit from its activities to develop its flag case business and is located in an area classified as ''severely economically distressed.''

The majority of the current contractor's Government sales of the flag cases are to the Army, Air Force, or exchange system. The Committee proposes to add only the Navy and Marine Corps requirements to the Procurement List. These requirements comprise less than five percent of the contractor's business, and the contractor has been selling the cases to the Navy and Marine Corps for less than a year. The Committee does not normally consider an impact of this size to be severe adverse impact, particularly when the contractor does not have a long-term dependence on sales of the item to the affected customer.

Nevertheless, some of the commenters have indicated that even a sales loss of this lesser size would have a severe impact on the contractor, given its current profitability status, and particularly on its subsidiary which makes the cases and on the county in which the subsidiary is located if the subsidiary is forced to close. They contend that the contractor must continue to expand its business in order to become profitable, so it cannot afford to lose any part of its current sales or prospects, and it would not be fair for it to lose the fruits of its business development efforts.

The contractor is currently selling the flag cases to the Government under the competitive purchasing system. In this system, no contractor is guaranteed that it will continue to receive Government contracts. Any company desiring to do business with the Government thus risks the loss of any expenditure of money or effort it makes in order to obtain this business. In addition, the Government's needs may change so that it would no longer buy the type of flag case that the contractor sells. Until last year, in fact, the Navy and Marine Corps bought a different type of flag case for the same purpose. Addition of the Navy and Marine Corps requirements for the case to the Procurement List is thus not the only way the contractor can lose this business.

The Committee does not believe that the proposed addition will cause the contractor to close its subsidiary and impact the local economy as some of the commenters have indicated. In its initial comment, the contractor indicated that loss of its entire Government flag case business would only cause the loss of two sales positions and a possible closing of the subsidiary. Since the amount being added to the Procurement List is only one-fifth of the contractor's Government flag case business, it appears unlikely that the impact would force the subsidiary's closing. To the extent that the Committee's action causes losses to the contractor or its employees, the Committee believes the losses are outweighed by the creation of jobs for people with severe disabilities, whose overall unemployment rate exceeds 65 percent, well above the rate for nondisabled workers in the contractor's locality.

One commenter expressed a fear that the Committee would expand its share of the Government market for the flag case beyond the Navy and Marine Corps requirements, causing a greater impact on the contractor. The Committee could not do that without conducting a separate rulemaking proceeding to add the additional quantities to the Procurement List. In that proceeding, the Committee would be required to consider the cumulative impact on the contractor caused by both addition actions. Unless the contractor's business fortunes had improved markedly, it is unlikely the Committee would add any further part of the contractor's Government sales of the flag case to the Procurement List.

The same commenter indicated that making flag cases is dangerous work, and questioned the ability of the designated nonprofit agency to produce the flag cases at a competitive price and in sufficient quantity to meet wartime requirements. As the Navy official who conducted the plant inspection noted in finding the nonprofit agency capable of meeting all Navy and Marine Corps supply requirements, the nonprofit agency has a fully equipped commercial woodworking operation, with machines which have been specially designed to allow people with disabilities to operate them safely. The Committee is required to set a fair market price for each item on the Procurement List, and the

nonprofit agency has agreed to produce the flag cases at the price that has been set.

Another commenter indicated that the contractor's firm may have disabled employees. The contractor, however, did not support this contention in its comments either to the Committee or in its letters to Members of Congress. One commenter proposed that the Committee permit the contractor to hire some people with disabilities instead of adopting the proposed addition to the Procurement List. The Committee encourages companies to hire people with disabilities but does not believe this hiring should replace the creation of jobs for people with severe disabilities through additions to the Procurement List, which guarantees employment for these people while commercial businesses are free to terminate workers with disabilities for any reason.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Case, Flag, Hardwood
8345–00–NSH–0013 (18'' x 25'' Navy)
8345–00–NSH–0014 (18'' x 25'' Marine Corps)
(Requirements for the Naval Medical Logistics Command, Fort Detrick, Maryland)

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–19242 Filed 8–3–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 5, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities have been proposed for addition to Procurement List for production by the nonprofit agency listed:

Drawers, Cold Weather
8415–01–227–9542
8415–01–227–9543
8415–01–227–9544
8415–01–227–9545
8415–01–227–9546
(Remaining 50% of the Government's requirement)
NPA: Peckham Vocational Industries, Inc., Lansing, Michigan.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–19243 Filed 8–3–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 5, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or

other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial
Department of Veterans Affairs
Franklin D. Roosevelt Hospital
Buildings 17, 18, 29, 39, 52, Paint Shop & Chapel
Montrose, New York
NPA: Community Aid for Retarded Children, Inc., Peekskill, New York

Janitorial/Custodial
U.S. Military Academy, Pershing Center
Buildings 2101, 2104, 2107 and 2113
West Point, New York
NPA: Orange County Rehabilitation Center—Occupations, Inc.
Middletown, New York

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–19244 Filed 8–3–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Part 247, Transportation, and Related Clause at 252.247; OMB Control Number 0704–0245.

Type of Request: Extension.

Number of Respondents: 2,532.

Responses Per Respondent: 1.

Annual Responses: 2,532.

Average Burden Per Response: 11 minutes.

Annual Burden Hours: 460.

Needs and Uses: This requirement provides for the collection of information from contractors who transport supplies by sea. It is used in the application of transportation and traffic management procedures in the acquisition of supplies. It is additionally used by contracting officers to process transportation and related services contracts.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Oficer, Department of Defense.

[FR Doc. 95–19287 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Forms, and OMB Control Number: DoD FAR Supplement, Part 245, Government Property, and Related Clauses at 252.245; DD Forms 1149, 1149C, 1342, 1419, 1637, 1639, 1640, and 1662; OMB Control Number 0704–0246.

Type of Request: Extension.

Number of Respondents: 14,896.

Responses Per Respondent: 3.

Annual Responses: 43,932.

Average Burden Per Response: 1 hours 13 minutes.

Annual Burden Hours: 53,185.

Needs and Uses: This requirement provides for the collection of information pertaining to providing government property to contractors; contractors' use and management of government property; and reporting, redistributing, and disposing of contractor inventory. It is used by contractors, property administrators, and contracting officers to maintain records of Government furnished property.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19294 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Part 236, Construction and Architect-Engineer Contracts, and Related Clauses in 252.236; OMB Control Number 0704–0255

Type of Request: Extension.

Number of Respondents: 2,680.

Responses Per Respondent: 1.

Annual Responses: 2,680.

Average Burden Per Response: 103 hours.

Annual Burden Hours: 276,620.

Needs and Uses: This requirement provides for the collection of information from contractors, pertaining

to construction costs. It is used by the Federal Government to evaluate price proposals for contract modifications, determine whether contractors have removed any obstructions to navigable waterways, and review contractor's requests for payment when mobilization or demobilization costs are included therein.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19288 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Subpart 223.370, Safety Precautions for Ammunition and Explosives, and Related Clauses at 252.223–7002 and 252.223–7003, OMB Control Number 0704–0272.

Type of Request: Extension.

Number of Respondents: 1,401.

Responses per Respondent: 1.

Annual Responses: 1,401.

Average Burden per Response: 4 hours.

Annual Burden Hours: 5,451.

Needs and Uses: The information collected hereby, is used by Federal Government personnel to ensure that contractors take reasonable precautions in handling ammunition and explosives in order to minimize the potential for mishaps.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19289 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Part 205, Publicing Contract Actions, and the Clause at 252.205–7000; OMB Control Number 0704–0296.

Type of Request: Extension.

Number of Respondents: 1,800.

Responses per Respondent: .1.

Annual Responses: 1,800.

Average Burden per Response: 1 hour 18 minutes.

Annual Burden Hours: 2,340.

Needs and Uses: This requirement provides for the collection of information from defense contractors awarded contracts exceeding $500,000. It is provided to cooperative agreement holders at their request, and specifies individuals or offices with subcontract authority. This language implements the requirements contained in 10 U.S.C. 2413.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19290 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Part 228, Bonds and Insurance, and Related Clauses at 252.228; OMB Control Number 0704–0216.

Type of Request: Revision.

Number of Respondents: 31.

Responses Per Respondent: 1.

Annual Responses: 31.

Average Burden Per Response: 27 hours 25 minutes.

Annual Burden Hours: 850.

Needs and Uses: This requirement provides for the collection of information from defense contractors pertaining to reimbursement for war-hazard losses, and accident reporting involving aircraft, missiles, and space launch vehicles being manufactured, modified, overhauled, or repaired. It is used in monitoring accident reports, and in the processing of insurance claims relating to these areas.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room

10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated. August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 95–19293 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD FAR Supplement, Subpart 209.1, Responsible Prospective Contractors, and the Clause at 252.209–7002; OMB Control Number 0704–353.

Type of Request: Extension.

Number of Respondents: 25.

Responses Per Respondent: 1.

Annual Responses: 25.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 25.

Needs and Uses: This requirement provides for the collection of information from companies submitting offers under solicitations for contracts under a national security program requiring access to proscribed information. It is used by contracting officers to identify offers from companies that are effectively controlled or owned by foreign governments.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19292 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title And OMB Control Number: DoD FAR Supplement, Part 232, Contract Financing, and Related Clause at 252.232–7007; OMB Control Number 0704–0359.

Type of Request: Extension.

Number of Respondents: 800.

Responses Per Respondent: 1.

Annual Responses: 800.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 800.

Needs And Uses: This requirement provides for the collection of information from contractors who are awarded incrementally funded, fixed-price DoD contracts. The information collected hereby, constitutes a notification of the Federal Government by the contractor, when the work under the contract will, within ninety days, reach the point at which the amount payable by the Government (including any termination costs) approximates 85 percent of the funds currently allotted to the contract. This information will also be used to determine what course of action the Government will take; i.e., allot additional funds for continued performance, terminate the contract, or terminate certain contract line items.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19291 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–P

Office of the Secretary

Defense Science Board Task Force on Improved Application of Intelligence to the Battlefield

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Improved Application of Intelligence to the Battlefield will meet in closed session on August 8–10, 1995 at the Pentagon, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will determine the optimum posture for the employment and use of intelligence information derived from strategic and other assets and the timely delivery and fusion of same to theater operating forces. Particular emphasis should be placed on air defense and targeting information.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: August 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19247 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on US-New Independent States (NIS) Defense Diversification

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on US-New Independent

States (NIS) Defense Diversification will meet in closed session on October 18, 1995 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will advise the US Component(s) in efforts to promote the orderly shrinkage and reorientation to peaceful purposes of Russian defense industrial, technological, and scientific facilities and personnel not needed for legitimate defense requirements and to redirect them to satisfy the pressing needs of civil society.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: August 1, 1995.

Patricia L. Topping,

Alterate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19246 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–M

Membership of the Office of the Secretary of Defense Performance Review Board

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: On July 25, 1995, FR Doc. 95–18249, the Department of Defense published a notice concerning a Performance Review Board (PRB). The following replaces the identification of PRB members. All other information remains unchanged.

Office of the Secretary of Defense

Chairman

Vincent P. Roske, Jr.

Members

Al Goldberg
Blair Ewing
Claiborne Haughton
Dr. Patricia A. Sanders
Gordon K. Soper
John Mester
John Maddy
John B. Rosamond
Jordan Rizer
Joseph V. Osterman
Judith Daly
Ken C. Scheflen
Mary Susan Chadick
Paul Carew
Robert Snyder
Sallie Wake
Sam Worthington

Alternates

Steve Austin
Tom Bozek
Jennifer C. Buck
Gary Chirstoperson
Richard Dunn
Bob Emmerichs
Walt Freeman
Thomas Garnett
J. Michael Gilmore
Timothy X. Morgan
Robert A. Nemetz
Earl Payne
Theodore M. Prociv
James Q. Roberts
Kirk Griffin Russell
William Douglas Smith
Larry Stotts
Dennis H. Trosch
Craig Wilson

Dated: August 1, 1995.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–19248 Filed 8–3–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Finding of No Significant Impact for Operation of the Glass Melter Thermal Treatment Unit at the U.S. Department of Energy's Mound Plant, Miamisburg, Ohio

AGENCY: Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: The U.S. Department of Energy (DOE) has prepared an environmental assessment (DOE/EA–0821) for the proposed operation of the Glass Melter thermal treatment unit (''Glass Melter'') at DOE's Mound Plant in Miamisburg, Ohio. The Glass Melter would thermally treat mixed waste (hazardous waste contaminated with radioactive constituents, largely tritium, plutonium-238, and/or thorium-230), that was generated at the Mound Plant and is now in storage, by stabilizing the waste in glass blocks. Depending upon the radiation level of the waste, the Glass Melter may operate for as short a time as one year, but not longer than six years. DOE considered two onsite alternatives to the proposed action and seven offsite alternatives.

Based on the analysis presented in the environmental assessment, DOE believes that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, the preparation of an environmental impact statement is not required and the DOE is issuing this finding of no significant impact.

DATES: Proposed operation of the Mound Plant Glass Melter thermal treatment unit was the subject of a public meeting in Miamisburg, Ohio, on March 10, 1994. No unfavorable written comments from stakeholders were received by the DOE as a result of this meeting. The environmental assessment for the proposed operation of the Glass Melter was approved by DOE on October 27, 1994. A proposed finding of no significant impact (FONSI) was published in the **Federal Register** (FR) on November 3, 1994 (FR 59 55085) for public review and comment. No comments on the proposed FONSI were received, although a small number of individuals requested, and were provided, copies of the environmental assessment (EA).

ADDRESSES: Mail any requests for further information on the Glass Melter project, or the associated EA and FONSI, to: Ms. Sue Smiley, NEPA Compliance Officer, U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, Ohio 45343–3020, Phone: (513) 865–3987, Facsimile: (513) 865–4402.

FOR FURTHER INFORMATION: For further information on the DOE National Environmental Policy Act process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The proposed action would bring the Mound Plant Glass Melter out of cold shutdown mode and use it for treating mixed waste that was generated at the Mound Plant and is now in storage. The Glass Melter, housed in an annex of the Liquid Waste Disposal Building, consists of a burn chamber of stainless steel (lined with refractory material) with an exhaust (offgas) system connected to a system of pipes and scrubbers ending in a stack (scrubbers are devices that remove small particles, gasses, and airborne radionuclides generated during thermal treatment). Waste in sealed drums would be transported by truck from the Mound Hazardous Waste Storage Building or Radioactive Mixed-Waste Storage

Building to the annex, staged on a concrete loading dock adjacent to the annex, and then moved individually to a fume hood in the annex where the contents would be transferred into a feed system for processing in the melter. The waste would be added to molten soda-lime silica glass in the burn chamber of the Glass Melter. Ash from the combustion process would fall to the glass surface, where it would be incorporated into the melt. When the molten glass would reach a prescribed chemical mix (or a prescribed level of radioactivity), it would be discharged from the melter into 19 liter (five gallon) containers. The containers would then be transferred to a storage area in the building using mechanical aids (e.g., hoists and a roller conveyor system) to cool and to await transport by truck to existing onsite storage facilities.

The Glass Melter would have an estimated annual capacity of approximately 48,000 kg (106,000 lb) of wastes, based on an average throughput of 23 kg/hour (51 lb/hr) and a 2,080-hour work year. As originally proposed by the DOE, and as analyzed in the environmental assessment, operating at this capacity would have enabled DOE to eliminate the existing backlog of approximately 43,000 kg (95,000 lb) of mixed waste in approximately six years, while processing hazardous and mixed wastes [approximately 39,000 kg (86,000 lb) annually of nonradioactive solvents and mixed wastes] as generated.

Since the environmental assessment was written, DOE has decided to close the Mound Plant. DOE proposes, therefore, to use the Glass Melter only for the mixed waste backlog. DOE has not yet fully characterized this waste for radioactive contamination levels. The radiation level of the waste feed would be limited by the need to comply with the Environmental Protection Agency's National Emissions Standards for Hazardous Air Pollutants and by internal Mound limitations. If, after characterization, the radiation level of the waste is determined to be low enough that the capacity of the Glass Melter would be the factor controlling the processing rate, then the schedule for treatment of the backlog waste could be as short as one year.

The environmental impacts of the proposed treatment of only the mixed waste backlog are adequately covered, and are bounded by, the analysis in the environmental assessment, because calculations of radiological exposures and impacts were based on assumptions of waste radioactivity content that would exceed the actual content under the current proposed action (according to the environmental assessment, the mixed waste backlog is estimated to have a total activity of 211 curies of tritium and 0.42 curies of plutonium-238; the calculations for Glass Melter operations, however, are based on a total waste activity content of 240 curies/yr of tritium and 0.48 curies/yr of plutonium-238). The discussion below, which is based on the environmental assessment, therefore, would apply equally to the new proposed action. If the DOE later proposes to use the Glass Melter to treat other than mixed waste backlog, it will undertake appropriate further review under the National Environmental Policy Act.

Routine operation of the Glass Melter would generate treated offgas, scrubber sludge, scrubber liquid effluent, and several solid waste streams. The sludge generated by the scrubbing operations [approximately 770 kg (170 lb) per year] would be transferred by pipeline: (1) back to a Glass Melter feed port for reprocessing, (2) to an existing cementation process for immobilization in concrete, or (3) to container storage for any subsequent additional treatment required under the Resource Conservation and Recovery Act (RCRA) land disposal restrictions. Filtered liquid scrubber effluent [approximately 36,000 kg (79,000 lb) per year], depending on its composition, would be: (1) pumped to an existing wastewater treatment facility, (2) pumped to the cementation process for immobilization as concrete (if the waste processed involved significant tritium concentrations), or (3) packaged for any subsequent additional treatment required under RCRA land disposal restrictions. Most liquid effluent would be treated at Mound's existing radioactive wastewater treatment facility and released via an existing outfall permitted under the National Pollutant Discharge Elimination System (NPDES).

The Glass Melter would generate, per year, approximately 3,200 kg (7,000 lb) of glass block (mixed waste); 8,900 kg (20,000 lb) of cementized scrubber effluent and sludge (also mixed waste); and 1,900 kg (4,200 lb) of maintenance wastes (filters, replacement parts, etc.). The maintenance wastes would generally be considered mixed waste, although certain of the replacement parts may have only surface radioactive contamination or may not be hazardous waste. The mixed wastes would be stored onsite until a mixed waste disposal facility is available.

The immediate result of Glass Melter treatment would be the conversion of waste that is primarily liquid and combustible, to a stable, inorganic form that would present very little environmental concern in storage. Most of the waste would eventually require transport to a radioactive mixed waste land disposal facility. Any waste that is not mixed waste would be disposed of with other, similar Mound wastes (e.g., hazardous waste is shipped offsite for disposal).

Environmental Impacts: In a series of test burns conducted in January 1985, the Glass Melter demonstrated the capability to thermally treat hazardous wastes in compliance with regulatory requirements. In June 1987, the Glass Melter was further tested and demonstrated effective treatment of low-level radioactive waste while meeting applicable regulatory requirements. Proposed future treatment of wastes using the Glass Melter would also meet all applicable environmental requirements. The Glass Melter is considered a ''thermal treatment unit,'' not an ''incinerator,'' under the Environmental Protection Agency regulations (40 CFR 260.10). Under the regulations for miscellaneous treatment, storage, and disposal units (40 CFR Part 264, Subpart X), any permit for the glass melter may include appropriate conditions from the incinerator regulations (Subpart O). Thermal treatment is one of the limited options DOE currently has to meet the requirement for site treatment plans under the Federal Facility Compliance Act.

The Environmental Protection Agency issued a Draft Strategy for Combustion of Hazardous Waste in Incinerators and Boilers on May 18, 1993, initiating a reexamination of its existing regulations and policies on waste combustion. In the draft strategy, the Environmental Protection Agency indicates that, ''if conducted in compliance with regulatory standards and guidance, combustion can be a safe and effective means of disposing [of] hazardous wastes.'' To the extent that the Glass Melter would destroy hazardous wastes it would effectively ''dispose'' of that portion of the mixed waste backlog. Nevertheless, the thermal treatment of mixed wastes would necessitate the disposal of treatment residues as a mixed waste. These residues would be stored, pending final disposal in an approved location.

Emissions of nonradiological pollutants to the air during routine operation of the Glass Melter would include arsenic, cadmium, chromium, lead, carbon monoxide, hydrogen chloride, nitrogen oxides, and particulates. Predicted concentrations of nonradiological pollutants would meet applicable National Ambient Air Quality Standards and the maximum

acceptable ground-level concentrations established by the Ohio Environmental Protection Agency. During routine operation of the Glass Melter, the effective dose equivalent of radiation to the maximally exposed individual at the Mound Plant boundary [approximately 470 meters (510 yd) north-northeast from the Glass Melter stack] would be 0.07 mrem/year (tritium, plutonium-238, and thorium-230) from inhalation and ingestion pathways. These emissions would not cause the Mound Plant to exceed the individual effective dose equivalent limit of 10 mrem/year in the Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants. Based on the 1990 population distribution surrounding the Mound Plant, the collective effective dose equivalent to the total population residing within 80 km (50 mi) of the facility would be 2.6 person-rem/year. The environmental assessment shows that the health risk from such exposures would be very small.

Onsite personnel would not be exposed to unique hazards and would be adequately protected from potential exposure to radionuclides or other hazards by the existing health and safety programs. Existing facility design features would reduce direct worker contact with radioactive materials.

The formation of dioxins from Glass Melter operation would be virtually precluded due to specific technological design features of the equipment. For instance, the elevated operating temperatures of the Glass Melter would result in a high destruction and removal efficiency (99.9999% in test burns). In addition, the rapid cooling of the offgases below dioxin-forming temperatures, as recommended by the Environmental Protection Agency for municipal waste incinerators, would also be used to preclude dioxin formation.

The worst reasonably foreseeable accident involving the Glass Melter would be a fire on the loading dock that would result in the complete vaporization of the contents of ten mixed waste storage drums. The estimated frequency of such an accident is once every 100,000 years. The effective dose equivalent to the maximally exposed individual [approximately 200 m (220 yd) downwind] would be 0.2 mrem, well below Environmental Protection Agency standards. The environmental assessment shows that the health risk from such exposures would be very small. Predicted concentrations of nonradiological pollutants would meet the Ohio Environmental Protection Agency's maximum acceptable ground-level concentrations. Taking into account the low probability of such an event, and the small magnitude of the consequences, the health risk posed by the accident would be very small.

No endangered species, critical habitats, floodplains, wetlands, or historical or archaeological resources would be affected by the proposed action.

Alternatives Considered: In the environmental assessment, DOE considered two onsite alternatives to the proposed action and seven offsite alternatives in the context of the original proposed action (i.e., assuming the continuing operation of the Mound Plant). The discussion below, however, while being based on the environmental assessment, reflects the current proposed use of the Glass Melter (based on DOE's decision to close the Mound Plant), which is to treat only mixed waste backlog.

- *No Action:* The present practice of waste storage and disposal would continue and the Glass Melter would not be used. Most of the mixed waste backlog is liquid, and much of it is combustible. Storage of the untreated waste, therefore, could adversely impact human health and the environment, especially in the case of a fire in the storage facility.
- *Administrative Action:* Another alternative would be to rely upon the established Mound Waste Minimization and Pollution Prevention Program to identify, screen, and analyze options to reduce the generation of waste. Waste that is in storage would not be affected by this program. The need for treatment options would persist.
- *Offsite Treatment and Disposal:* These alternatives would involve the transportation of mixed wastes to designated sites. DOE considered seven options for offsite treatment. All of the offsite treatment alternatives, with the exception of the Nevada Test Site, would involve thermal treatment.

—*Quadrex HPS, Inc. (Gainesville, FL):* This commercial facility cannot accept certain of the Mound mixed wastes, so this alternative would not, by itself, address the need to treat such wastes.

—*Diversified Scientific Services, Inc. (Kingston, TN):* This commercial facility could accept most of the mixed waste from Mound. Treatment, however, may be restricted by air permit conditions limiting the type of waste used for fuel and by Environmental Protection Agency regulations for boilers and industrial furnaces (40 CFR 266.100–112 and Appendices I–IX).

—*Idaho National Engineering Laboratory (INEL):* INEL has a permitted incinerator facility, the Waste Experimental Reduction Facility (WERF), capable of burning radioactive material and hazardous waste. WERF is currently shut down, and its operation is contingent upon completion of National Environmental Policy Act review and DOE approval of a Safety Analysis Report. The current waste acceptance criteria for WERF limit the radioactive and chloride content of wastes and prohibit receipt of any free liquids. These criteria would prohibit the acceptance at WERF of almost all of the Mound waste proposed for treatment in the Glass Melter. The criteria could not be changed without substantial upgrades to WERF.

—*Los Alamos National Laboratory:* The proposed Controlled Air Incinerator is currently being permitted and undergoing National Environmental Policy Act review for operation at production capacity. Current operational plans do not include acceptance of offsite wastes, and the draft RCRA permit proposes to prohibit treatment of offsite waste.

—*Savannah River Site:* DOE is currently constructing the Consolidated Incinerator Facility under a construction permit from the State of South Carolina. This facility will not allow out-of-state waste to be treated. DOE is preparing an environmental impact statement on waste management at the Savannah River Site, which will include further analysis of operation of the Consolidated Incinerator Facility and other volume reduction alternatives. Trial burns and operation of the facility are being deferred until the completion of the environmental impact statement process.

—*Oak Ridge Gaseous Diffusion Plant:* The incinerator at the Oak Ridge Gaseous Diffusion Plant currently treats mixed waste. The primary sources of waste treated at this incinerator are the Paducah Gaseous Diffusion Plant, the Portsmouth Gaseous Diffusion Plant, and the Oak Ridge Reservation. A substantial backlog of waste exists that will take several years to treat. Thus, this alternative would not be available to Mound for several years and would not meet Mound's immediate needs.

—*Nevada Test Site:* Disposal of mixed waste at the Nevada Test site is considered a possible alternative to treatment in the Glass Melter. Land disposal restrictions under the Resource Conservation and Recovery Act would require, however, that any

mixed waste be treated before disposal. The Nevada Test Site would only, therefore, be a reasonable alternative for Mound waste already treated at another facility. DOE has not yet decided to what extent the Nevada Test Site would be used for future disposal of offsite waste; such decisions will be made after completion of the Environmental Restoration and Waste Management Programmatic Environmental Impact Statement and the Nevada Test Site Sitewide Environmental Impact Statement.

Proposed Determination: Based on the information and the analysis in the environmental assessment, DOE believes the proposed action (i.e., operation of the Glass Melter for treatment of backlog mixed waste only) does not constitute a major Federal action that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, the preparation of an environmental impact statement is not required and the DOE is issuing this finding of no significant impact.

Issued in Miamisburg, Ohio, on July 26, 1995.

Robert D. Folker,

Acting Manager, Ohio Field Office.

[FR Doc. 95–19235 Filed 8–3–95; 8:45 am]

BILLING CODE 6450–01–P

Reopening of the Public Comment Period for the Draft Programmatic Environmental Impact Statement for the Uranium Mill Tailings Remedial Action Ground Water Project

AGENCY: Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: In response to a request from the Navajo Nation, the Department of Energy has decided to extend the period for public review and comment on the draft Programmatic Environmental Impact Statement for the Uranium Mill Tailings Remedial Action Ground Water Project. Public hearings on the draft document were held in nine communities June 7–28, 1995. The public comment period, originally scheduled to conclude July 14, has been reopened and extended through September 20, 1995. Written comments should be postmarked by that date to ensure consideration in preparation of the final document. Comments received after that date will be considered to the extent practicable. Written comments on the draft Programmatic Environmental Impact Statement should be directed to Mr. Rich Sena, Acting Director, Environmental Restoration Division, Department of Energy, Suite 4000, 2155 Louisiana NE, Albuquerque, New Mexico 87110, Fax number: (505) 845–4239.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the draft programmatic environmental impact statement and requests for further information concerning this document may be directed to Mr. Rich Sena at the address above. Requests may also be made by leaving a message at 1–800–523–6495 (outside New Mexico) and 1–800–423–2539 (within New Mexico). For general information on the procedures followed by the Department of Energy in complying with the National Environmental Policy Act, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone 1–202–586–4600 or leave a message at 1–800–472–2756.

Issued in Washington, D.C. on July 31, 1995.

Ralph G. Lightner,

Director, Office of Southwestern Area Programs, Environmental Restoration.

[FR Doc. 95–19234 Filed 8–3–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER90–168–021, et al.]

National Electric Associates Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

July 28, 1995.

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

1. National Electric Associates Limited Partnership

[Docket No. ER90–168–021]

Take notice that on July 6, 1995, National Electric Associates Limited Partnership filed certain information as required by the Commission's March 20, 1990, order in Docket No. ER90–168–000. Copies of the informatl filing are on file with the Commission and are available for public inspection.

2. Wholesale Power Services, Inc.

[Docket No. ER93–730–000]

Take notice that on July 26, 1995, Wholesale Power Services, Inc. filed an amended application in this proceeding.

Comment date: August 11, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Howard Energy Company, Inc.

[Docket No. ER94–252–002]

Take notice that on July 24, 1995, Howard Energy Company, Inc., (Howard Energy) filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER94–252–000. Copies of Howard Energy's informational filing are on file with the Commission and are available for public inspection.

4. Cenergy, Inc.

[Docket No. ER94–1402–003]

Take notice that on July 18, 1995, Cenergy, Inc., (Cenergy) filed certain information as required by the Commission's December 7, 1994, order in Docket No. ER94–1402–000. Copies of Cenergy's informational filing are on file with the Commission and are available for public inspection.

5. ACME Power Marketing, Inc.

[Docket No. ER94–1530–004]

Take notice that on July 13, 1995, ACME Power Marketing, Inc. (ACME) filed certain information as required by the Commission's October 18, 1994, order in Docket No. ER94–1530–000. Copies of ACME's informational filing are on file with the Commission and are available for public inspection.

6. AIG Trading Corporation

[Docket No. ER94–1691–006]

Take notice that on July 12, 1995, AIG Trading Corporation (AIG) filed certain information as required by the Commission's January 19, 1995, order in Docket No. ER94–1691–000. Copies of AIG's informational filing are on file with the Commission and are available for public inspection.

7. Petroleum Sources & Systems Group, Inc.

[Docket No. ER95–266–002]

Take notice that on July 11, 1995, Petroleum Source Systems Group, Inc., filed certain information as required by the Commission's January 18, 1995, order in Docket No. ER95–266–000. Copies of Petroleum Source Systems Group's informational filing are on file with the Commission and are available for public inspection.

8. Wilson Power & Gas Smart, Inc.

[Docket No. ER95–751–002]

Take notice that on July 17, 1995, Wilson Power & Gas Smart, Inc. filed certain information as required by the Commission's April 25, 1995, order in Docket No. ER95–751–000. Copies of Wilson Power & Gas Smart's informational filing are on file with the

Commission and are available for public inspection.

9. Delhi Energy Services, Inc.

[Docket No. ER95–940–001]

Take notice that on July 19, 1995, Delhi Energy Services, Inc., filed certain information as required by the Commission's June 1, 1995, order in Docket No. ER95–940–000. Copies of Delhi's informational filing are on file with the Commission and are available for public inspection.

10. Stalwart Power Company

[Docket No. ER95–1334–000]

Take notice that on July 21, 1995, Stalwart Power Company (Stalwart) tendered for filing an amendment to its proposed FERC Electric Rate Schedule No. 1 which provides for negotiated rates, terms and conditions and which was filed as part of Stalwart's Application for Blanket Authorizations, Jurisdiction Disclaimer, Certain Waiver and Order Approving Rate Schedule on July 3, 1995 in the above captioned proceeding.

Stalwart states that its Rate Schedule No. 1 is amended to restrict sales of electric power to any parent, affiliate or subsidiary of Stalwart, as has been required of other electric power marketers in Commission precedent and to establish a new effective date of September 2, 1995.

Comment date: August 11, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–19177 Filed 8–3–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC95–17–000, et al.]

Tampa Electric Company, et al.; Electric Rate and Corporate Regulation Filings

July 31, 1995.

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

1. Tampa Electric Company

[Docket No. EC95–17–000]

Take notice that on July 26, 1995, Tampa Electric Company (Tampa) filed an application for Commission authorization to: (1) Acquire from the Orlando Utilities Commission (OUC) an undivided interest in a 25-mile-long segment of 230 Kv transmission line between the Lake Agnes and Cane Island substations; and (2) convey to OUC undivided interest in certain facilities at the Osceola substation and the 4.4-mile-long, 69 Kv transmission line between the Osceola and Studio substations.

Copies of the application have been served on OUC and the Florida Public Service Commission.

Comment date: August 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Howell Power Systems, Inc.

[Docket No. ER94–178–006]

Take notice that on July 24, 1995, Howell Power Systems, Inc., filed certain information as required by the Commission's January 14, 1995, Order in Docket No. ER94–178–000. Copies of Howell Power Systems, Inc.'s informational filing are on file with the Commission and are available for public inspection.

3. Maine Public Service Company

[Docket No. ER95–836–001]

Take notice that the Notice of Filing issued on July 19, 1995, in the above-referenced docket should be rescinded.

4. Delmarva Power & Light Company

[Docket No. ER95–1038–000]

Take notice that on July 26, 1995, Delmarva Power & Light Company (Delmarva) of Wilmington, Delaware, filed an amendment to its filing of eight year power supply contracts (the Service Agreements) under which Delmarva will provide requirements service to four Delaware Municipal customers, Lewes, Milford, Newark, and New Castle.

The amendment provides additional cost support for certain of the pricing terms reflected in the Service Agreements and responds to questions raised by FERC Staff with respect to such pricing terms. Also filed is a Transmission Service Agreement between Delmarva and the City of Lewes, to be incorporated and made effective October 1, 1995, as Appendix C of the Electric Service Agreement between Lewes and Delmarva that is before the Commission in this docket. This Transmission Service Agreement is in accordance with Article VII of the Electric Service Agreement and the rates set forth in Appendix C–1 thereto as originally filed. Appendix C of the Electric Service Agreement had been reserved for such Transmission Service Agreement.

The amendment does not modify the proposed effective date of the Service Agreements of February 1, 1995. Delmarva states that the amendment has been posted and has been served upon the affected customers and the Delaware Public Service Commission.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Public Service Company

[Docket No. ER95–1131–000]

Take notice that on July 13, 1995, Central Maine Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Western Regional Transmission Association

[Docket No. ER95–1211–002]

Take notice that on July 26, 1995, Western Regional Transmission Association tendered for filing Member Signature Page executed by Deseret Generation & Transmission Co-operative to become a member of the Western Regional Transmission Association.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER95–1317–000]

Take notice that on July 17, 1995, Northeast Utilities Service Company (NU) tendered for filing an amendment in the above-referenced docket.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power and Light Company

[Docket No. ER95–1388–000]

Take notice that on July 18, 1995, Wisconsin Power and Light Company (WPL) tendered for filing a letter agreement and a new Appendix L to the Interconnection Agreement dated January 5, 1966 between Wisconsin

Power and Light Company and Wisconsin Public Service Corporation (WPSC). Appendix L establishes the new Dewey 115 kV Interconnection between the parties, located on WPSC's Northpoint-Weston 115 kV transmission line.

A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER95–1390–000]

Take notice that on July 18, 1995, Northern States Power Company Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service to MidCon Power Services, Corp.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of August 6, 1995. NSP requests a waiver of the Commission's notice requirements pursuant to 18 CFR Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Wickford Energy Marketing, L.C.

[Docket No. ER95–1415–000]

Take notice that on July 21, 1995, Wickford Energy Marketing, L.C. tendered for filing an application for blanket authorizations, certain waivers, and order approving rate schedule.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Company

[Docket No. ER95–1416–000]

Take notice that on July 21, 1995, Commonwealth Edison Company (ComEd) submitted two Service Agreements, establishing Tennessee Power Company (TPCO) and Stand Energy Corporation (Stand) as customers under the terms of ComEd's Power Sales Tariff PS–1 (PS-Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of June 30, 1995, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon TPCO, Stand and the Illinois Commerce Commission.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Kansas City Power & Light Company

[Docket No. ER95–1417–000]

Take notice that on July 21, 1995, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated July 10, 1995, between KCPL and St. Joseph & Light Company (SJLP). KCPL proposes an effective date of July 10, 1995, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and SJLP.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges which are under review by the Commission in Docket No. ER94–1045–000 and which are subject to a refund pursuant to the Commission's order in that docket.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Kansas City Power & Light Company

[Docket No. ER95–1418–000]

Take notice that on July 21, 1995, Florida Power & Light Company (FPL) tendered for filing a proposed Service Agreement with Catex Vitol Electric, L.L.C. for transmission service under FPL's Transmission Tariff No. 3. FPL requests that the proposed Service Agreements be permitted to become effective on August 1, 1995, or as soon thereafter as practicable.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Central Hudson Gas and Electric Corporation

[Docket No. ER95–1420–000]

Take notice that Central Hudson Gas and Electric Corporation (CHG&E), on July 24, 1995, tendered for filing a Service Agreement between CHG&E and Montaup Electric Company. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662–000. CHG&E also has requested waiver of the 60-day notice provision.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: August 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–19204 Filed 8–3–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11322–000, California]

Tuolumne Utilities District; Notice of Availability of Final Environmental Assessment

July 31, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a minor license for the Columbia Water Supply Hydroelectric Project, located near the town of Sonora, in Tuolumne County, California, and has prepared a final environmental assessment (EA) for the project.

On March 9, 1995, staff issued and distributed to all parties a draft EA, and requested that comments on the draft EA be filed with the Commission within 30 days. Comments were filed by the applicant and are addressed in the final EA.

In the final EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that approval of the project, with appropriate environmental protection and enhancement measures, would not constitute a major federal action that would significantly affect 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, N.E., Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–19176 Filed 8–3–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4725–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed July 24, 1995 Through July 28, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950328, Draft EIS, FHW, HI, Kealakehe Parkway Completion, Queen Kaahumanu Highway and Honokohau Harbor Road Intersection to near the Mamalahoa Highway and Old Mamalahoa Highway Intersection, North Korna District, Hawaii County, HI, Due: September 18, 1995, Contact: Abraham Wong (808) 541–2700.

EIS No. 950329, Final EIS, AFS, MT, Wagner-Atlanta Vegetation Treatment Project, Implementation, Helena National Forest, Townsend Ranger District, Meagher County, MT, Due: September 05, 1995, Contact: George Weldon (406) 266–3425.

EIS No. 950330, Final EIS, BLM, WY, Greater Wamsutter Area II Natural Gas Development Project, Approvals and Permits Issuance, Carbon and Sweetwater Counties, WY, Due: September 05, 1995, Contact: John Spehar (307) 324–4841.

EIS No. 950331, Draft EIS, AFS, MT, Checkerboard Land Exchange, Plan of Approval and Implementation, Kootenai, Lolo and Flathead National Forest, Lincoln, Flathead and Sanders Counties, MT, Due: September 18, 1995, Contact: Ted Andersen (406) 293–6211.

EIS No. 950332, Final EIS, EPA, CA, Humboldt Bay Open Ocean Dredged Material Disposal Site (ODMDs) Designation, Samoa Peninsula, Humboldt County, CA, Due: September 05, 1995, Contact: Allan Ota (415) 744–1980.

EIS No. 950333, Final EIS, AFS, MT, Big Mountain Ski and Summer Resort Expansion Project, Special-Use-Permit, Flathead National Forest, Tally Lake and Glacier View Ranger Districts, Whitefish, Flathead County, MT, Due: September 05, 1995, Contact: Becky Smith (406) 862–2508.

EIS No. 950334, Draft EIS, FHW, OK, Canadian River Bridge Crossing Construction, MT–37 east of Tuttle northward to MT–152 in or near Mustang, Funding, COE Section 404 and EPA NPDES Permits Issuance, Canadian and Counties, MT, Due: September 18, 1995, Contact: James Erickson (405) 945–6011.

EIS No. 950335, Draft EIS, AFS, AK, Lab Bay Project Area Timber Harvest, Implementation, COE Section 404, EPA NPDES and Coast Guard Bridge Permits Issuance, Thorne Bay Ranger District, Ketchikan Administrative Area, Tongass National Forest, Prince of Wales Island, AK, Due: September 18, 1995, Contact: Dave Arrasmith (907) 225–3101.

EIS No. 950336, Final EIS, COE, IL, Sugar Creek Municipal Water Supply Reservoir Construction, COE Section 404 Permit Issuance, City of Marion, Williamson and Johnson Counties, IL, Due: September 05, 1995, Contact: Terry Siemsen (502) 582–5550.

EIS No. 950337, Final EIS, AFS, CA, Mendocino National Forest Land and Resource Management Plan, Implementation, Colusa, Glenn, Lake, Mendocino, Tehama and Trinity Counties, CA, Due: September 05, 1995, Contact: Daniel K. Chisholm (916) 934–3316.

EIS No. 950338, Draft EIS, TVA, TN, KY, MS, AL, GA, NC, VA, Programmatic EIS—Energy Vision 2020, Integrated Resource Plan, Implementation of Long-Term Plan and Short-Term Action, TN, AL, KY, GA, MS, NC and VA, Due: October 15, 1995, Contact: Lynn Maxwell (615) 751–2539.

EIS No. 950339, Draft EIS, AFS, MT, Skyline Ridge Project Area Timber Salvage and Associated Activities, Plan of Approval and Implementation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT, Due: September 18, 1995, Contact: Steve Prieve (406) 295–4693.

EIS No. 950340, Draft EIS, AFS, WA, First Creek Basin Restoration Project, Implementation, Wenatchee National Forest, Chelan Ranger District, Chelan County, WA, Due: September 18, 1995, Contact: Al Murphy (509) 682–2576.

EIS No. 950341, Draft EIS, SFW, CA, Stephens' Kangaroo Rat (SKR) Authorization for Incidental Take and Implementation of a Long-Term Habitat Conservation Plan, Western Riverside County, CA, Due: September 18, 1995, Contact: Jeff Newman (619) 431–9440.

EIS No. 950342, Draft EIS, FHW, NC, Sunset Beach Bridge No. 198 on Secondary Road NC–1172 Replacement, Over the Atlantic Intracoastal Waterway, Funding, COE Section 10 and 404 Permit, Brunswick County, NC, Due: September 25, 1995, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 950343, Draft EIS, AFS, AK, Eight Fathom Timber Sales, Implementation, COE Section 404 Permit and EPA NPDES, Tongass National Forests, Hoonah and Sitka Ranger District, Chatham Area, AK, Due: September 19, 1995, Contact: Michael Weber (907) 747–6671.

EIS No. 950344, Draft EIS, FHW, CO, CO–82 Highway Transportation Project, Improvements to ''Entrance to Aspen'', Funding and COE Section 404 Permit, City of Aspen, Pitkin County, CO, Due: September 18, 1995, Contact: Ron Speral (303) 969–6737 ex.368

EIS No. 950345, Revised Draft EIS, UAF, ME, Loring Air Force Base (AFB) Disposal and Reuse, Implementation, Updated and Additional Information, Aroostook County, ME, Due: September 18, 1995, Contact: Nancy Speake (210) 536–5630.

EIS No. 950346, Draft EIS, UAF, NY, Griffis Air Force Base (AFB) Disposal and Reuse, Implementation, Oneida County, NY, Due: September 25, 1995, Contact: Jonathan D. Farthing (210) 536–3787.

EIS No. 950347, Final EIS, FAA, NJ, Expanded East Coast Plan, Changes in Aircraft Flight Patterns over the State of New Jersey, Implementation, NJ, Due: September 11, 1995, Contact: William Marx (202) 267–9155.

EIS No. 950348, FINAL EIS, NPS, WA, Elwha River Ecosystem Restoration, Implementation, Olympic National Park, Clallam County, WA, Due: September 05, 1995, Contact: Brian Winter (206) 452–0321.

Amended Notices

EIS No. 950250, Final EIS, FHW, PA, I–81 Interchange Project, Construction, Funding Chambersburg, Franklin County, PA, Due: July 17, 1995, Contact: Manuel Marks (717) 782–3461. Published FR—6–16–95 Correction to Title.

Dated: August 1, 1995.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–19271 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1059–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia (FEMA–1059–DR), dated July 1, 1995, and related determinations.

EFFECTIVE DATE: July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 7, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–19221 Filed 8–3–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1059–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, FEMA–1059–DR), dated July 1, 1995, and related determinations.

EFFECTIVE DATE: July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia dated July 1, 1995, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 1, 1995:

Roanoke County for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–19222 Filed 8–3–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review: Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: In notice document 95–18314 beginning on page 38339 in the issue of Wednesday, July 26, 1995, make the following corrections:

1. On page 38340 in the first column, the comment period previously was stated to expire on August 21, 1995. DATES: should be changed to read ''Comments must be submitted on or before August 25, 1995.''

2. On page 38341 in the third column, the annual reporting hours for the third report of those proposed to be extended without revision, OMB Docket Number 7100–0042, Applications for the Issuance and Cancellation of Federal Reserve Stock-National Bank, Nonmember Bank, Member Bank, were incorrectly stated. *Annual reporting hours:* should be changed to read ''940 (FR 2030: 43; FR 2030a: 28; FR 2056: 797; FR 2086a: 26; FR 2086b: 24; FR 2087: 22).''

Board of Governors of the Federal Reserve System, July 31, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–19206 Filed 8–3–95; 8:45 am]

BILLING CODE 6210–01–P

Bill J. Horne, Sr.; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice 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 indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than August 18, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Bill J. Horne, Sr., Ada, Oklahoma; to retain 27.14 percent, for a total of 27.14 percent, and thereby retain control of the voting shares of First Ada Bancshares, Inc., Ada, Oklahoma, and thereby indirectly acquire The First National Bank & Trust Co., Ada, Oklahoma.

Board of Governors of the Federal Reserve System, July 31, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–19207 Filed 8–3–95; 8:45 am]

BILLING CODE 6210–01–F

Pikeville National Corporation, 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 August 28, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Pikeville National Corporation and Whitley Acquisition Corp., both of

Pikeville, Kentucky; to acquire 100 percent of the voting shares of United Whitley Corp., Williamsburg, Kentucky, and thereby indirectly acquire Bank of Williamsburg, Williamsburg, Kentucky.

In connection with this application Whitley Acquisition Corp., Pikeville, Kentucky, has applied to become a bank holding company.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Inc., Detroit, Michigan, and Comerica Texas, Inc., Dallas, Texas; to acquire 100 percent of the voting shares of QuestStar Bank, NA, Houston, Texas.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Boatmen's Bancshares, Inc., St. Louis, Missouri; to merge with Citizens Bancshares Corporation, Little Rock, Arkansas, and thereby indirectly acquire Citizens Bank of Jonesboro, Jonesboro, Arkansas.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Liberty National Bank, Austin, Texas.

E. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Northeast Portland Community Development Trust, Portland, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Albina Community Bancorp, Portland, Oregon, and thereby indirectly acquire Albina Community Bank (in organization), Portland, Oregon.

In connection with this application Albina Community Bancorp also has applied to become a bank holding company by acquiring Albina Community Bank (in organization), Portland, Oregon.

Board of Governors of the Federal Reserve System, July 31, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–19208 Filed 8–3–95; 8:45 am]

BILLING CODE 6210–01–F

Sun Bancorp, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 18, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Sun Bancorp, Inc., Selinsgrove, Pennsylvania; to engage *de novo* through Mifflin Associates, Mifflinburg, Pennsylvania, in community development activities through its investment in Mifflin Associates, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. SunTrust Banks, Inc., and Trust Company of Georgia, both of Atlanta, Georgia; to engage *de novo* through Personal Express Loans, Inc., Atlanta, Georgia, in making, acquiring, or servicing loans or other extensions of credit, pursuant to § 225.25(b)(1)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 31, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–19209 Filed 8–3–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Dkt. 9207]

The Coca-Cola Company; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens a 1994 final order that requires the respondent to obtain Commission approval before acquiring stock or interest in any company that manufactures or sells concentrate, syrup, or carbonated soft drinks in the U.S. This order modifies the final order in settlement of the petitions for review filed by the respondent in the U.S. Court of Appeals.

DATES: Complaint issued June 13, 1994. Modified final order issued May 25, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Naomi Licker or Daniel Ducore, FTC/2115, Washington, DC 20580. (202) 326–2851 or 326–2526.

SUPPLEMENTARY INFORMATION: In the Matter of the Coca-Cola Company. The prohibited trade practices and/or corrective actions as set forth at 59 FR 40031, are changed in part.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18))

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–19237 Filed 8–3–95; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. C–2966]

General Motors Corporation

AGENCY: Federal Trade Commission.

ACTION: Notice of period for public comment on petition to modify consent order.

SUMMARY: General Motors Corporation (''GM''), the respondent in Docket No. C–2966, is subject to an order that

[1] Copies of the Modifying Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

prohibits it from displaying the name of any GM car division on any engine or visible attachment to the engine unless that engine is manufactured by that division. GM filed a petition on July 7, 1995, requesting the Commission to reopen and modify the order to allow GM to display a passenger car's nameplate on the engine or visible attachment to the engine if the engine is materially different from other engines in GM cars under other nameplates. This document announces the public comment period on this petition.

DATES: The deadline for filing comments in this matter is August 25, 1995.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Requests for copies of the petition should be sent to the Public Reference Branch, Room 130.

FOR FURTHER INFORMATION CONTACT: Thomas D. Massie, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 326–2982.

SUPPLEMENTARY INFORMATION: The order in Docket No. C–2966 was issued on May 18, 1979, and reported at 93 F.T.C. 860. GM argues that changed conditions of fact require modifying the order. In 1979, GM passenger car divisions manufactured engines. Passenger car divisions ceased manufacturing engines in 1984. Through a series of organizational changes, the manufacture of passenger car engines is now under the Power Train Group. The Power Train Group produces engines and transmissions for all GM passenger cars except Saturn. As a consequence, the order provision prohibiting the placement of a car divisions's name on the engine unless it was manufactured by that division has prevented GM from placing the name of car division, such as Cadillac, on the engine of any passenger car produced by GM. GM seeks to place the nameplate of a passenger car on the engine only if it is unique to that nameplate because of material differences such as horsepower or displacement from similar engines used in different nameplates.

Donald S. Clark,

Secretary.

[FR Doc. 95–19238 Filed 8–3–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3591]

Mattel, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based corporation from representing that any aerosol product it sells offers any environmental benefit, unless it can substantiate the claim.

DATES: Complaint and Order issued June 23, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, D.C. 20580, (202) 326–3158.

SUPPLEMENTARY INFORMATION: On Friday, April 14, 1995, there was published in the **Federal Register**, 60 FR 19068, a proposed consent agreement with analysis In the Matter of Mattel, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–19239 Filed 8–3–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580

[File No. 941–0107]

Santa Clara County Motor Car Dealers Association; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California association from carrying out, participating in, inducing or assisting any boycott or concerted refusal to deal with any newspaper, periodical, television or radio station, and would require the association to amend its by-laws to incorporate the stipulated prohibition, and to distribute the amended by-laws and the final Commission order to each of its members.

DATES: Comments must be received on or before October 3, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ralph Stone, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules and Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rule of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of: Santa Clara County Motor Car Dealers Association, an unincorporated association; File No. 941–0107.

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the Santa Clara County Motor Car Dealers Association, an unincorporated association, and it now appearing that the Santa Clara County Motor Car Dealers Association, hereinafter sometimes referred to as the ''Association'' or ''proposed respondent,'' is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is Hereby Agreed by and between the Association, by its duly authorized

officers, and its attorney, and counsel for the Federal Trade Commission that:

1. The Association is an unincorporated association organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business at 336 East Hamilton Avenue, Campbell, California 95008.

2. The Association admits all the jurisdictional facts set forth in the draft of Complaint.

3. The Association waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act, 5 U.S.C. § 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the draft of Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of Complaint, or that the facts as alleged in the draft of Complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (a) issue its Complaint corresponding in form and substance with the draft of Complaint and its decision containing the following Order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the Complaint and decision containing the agreed-to Order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondent has read the proposed Complaint and Order contemplated hereby. Proposed respondent understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It Is Ordered that, for the purposes of this Order, ''respondent'' or ''Association'' shall mean the Santa Clara County Motor Car Dealers Association, its predecessors, successors and assigns, and its directors, committees, officers, delegates, representatives, agents, and employees.

II

It Is Further Ordered that the Association, directly or indirectly, or through any person or any corporate or other device, in or in connection with its activities as a trade association, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, shall forthwith cease and desist from carrying out, participating in, inducing, suggesting, urging, encouraging, or assisting any boycott of, or concerted refusal to deal with, any newspaper, periodical, television station, or radio station; provided, however, that nothing in this Order shall prohibit the Association or any of its members from establishing, participating in, or maintaining joint advertising programs, so long as such joint advertising programs are not a part of any boycott or concerted refusal to deal and do not otherwise violate this Order.

III

It Is Further Ordered that the Association shall:

A. Within sixty (60) days after the date this Order becomes final, amend its by-laws to incorporate by reference Paragraph II of this Order, and distribute by first-class mail a copy of the amended by-laws to each of its members;

B. Within thirty (30) days after the date this Order becomes final, distribute by first-class mail a copy of this Order and the Complaint to each of its members;

C. For a period of five (5) years after the date this Order become final, provide each new member with a copy of this Order, the complaint, and the amended by-laws within thirty (30) days of the new member's admission to the Association; and

D. Within seventy-five (75) days after the date this Order becomes final, and annually thereafter for a period of five (5) years on the anniversary of the date this Order became final, file with the Secretary of the Commission a verified written report setting forth in detail the manner and form in which the Association has complied with and is complying with this Order.

IV

It Is Further Ordered that the Association shall notify the Commission at least thirty (30) days prior to any change in the Association, such as dissolution or reorganization resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

V

It Is Further Ordered that, for the purpose of determining or securing compliance with this Order, respondent shall permit any duly authorized representative of the Commission:

A. Upon seven (7) days' notice to respondent, to have access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this Order; and

B. Upon seven (7) days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent.

VI

It Is Further Ordered that this Order shall terminate twenty (20) years from the date this Order becomes final.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from the Santa Clara County Motor Car Dealers Association (''Association'').

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Description of the Complaint

A complaint prepared for issuance by the Commission along with the proposed order alleges that the Association and at least some of its members agreed that members would cancel advertising in, and thereafter collectively withhold advertising from, the San Jose Mercury News newspaper in retaliation for a Mercury News article that was intended to educate consumers on how to analyze the manufacturer's factory invoice as part of the automobile-buying process. Armed with this information, the consumer may be better equipped to negotiate a lower price.

The complaint alleges that the purposes or effects of the agreement were to restrain competition among new automobile and truck dealers in Santa Clara County, California, and to deprive consumers of truthful information pertinent to the purchase of new automobiles and trucks. Agreements not to disemminate information through advertising can make it more difficult for consumers to choose among automobile dealers by preventing direct interbrand and intrabrand comparisons of dealers' automobiles and their prices and services, and thus may increase consumer search costs. Moreover, the use of the combined economic power of the automobile dealers to affect a newspaper's editorial content may chill the publication of information that would lower search costs and make readers more effective consumers.

Description of the Proposed Consent Order

The proposed order would prohibit the Association from carrying out, participating in, inducing, suggesting, urging, encouraging, or assisting any boycott of, or concerted refusal to deal with, any newspaper, periodical, television station, or radio station.

The proposed order would permit the Association to establish, participate in, and maintain joint advertising programs, so long as such joint advertising programs are not part of any boycott or concerted refusal to deal.

The proposed order would require the Association to amend its by-laws to incorporate by reference the order. It would also require the Association to distribute a copy of the amended by-laws, the order, and the complaint to each of its members, file compliance reports, and notify the Commission of certain changes in its structure.

Finally, the proposed order contains a twenty year ''sunset'' provision. Under this provision, the terms of the order shall terminate twenty years after the date the order becomes final.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

The proposed consent order has been entered into for settlement purposes only and does not constitute an admission by the Association that the law has been violated as alleged in the complaint.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–19240 Filed 8–3–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: Uniform Reporting Requirements for IV–A and IV–F Funded Child Care for Non-JOBS Participants, Tribal JOBS Participants, Transitional Child Care and At-Risk Child Care.

OMB No.: 0970–0115.

Description: Title IV–A and IV–F funded child care data collection form ACF–115. States are required to report child care data on a quarterly basis.

Respondents: State governments.

Title	Number of respondents	Number of responses per respondent	Average burden per response	Burden
ACF–115	54	4	35	7560

Estimated Total Annual Burden Hours: 7,560.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information systems, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: August 1, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–19277 Filed 8–3–95; 8:45 am]

BILLING CODE 4184–01–M

Office of Child Support Enforcement; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KF, The Office of Child Support Enforcement (OCSE) (56 FR 42341), as last amended, August 27, 1991. This reorganization will establish a new office within the OCSE.

1. Amend KF.10 Organization. Delete in its entirety and replace it with the following:

KF.10 Organization. The Office of Child Support Enforcement is headed by a Director and consists of:

Office of the Director (KFA)
Division of Audit (KFB)
Division of Program Operations (KFC)
Division of Policy and Planning (KFD)
Division of Consumer Services (KFE)

2. Amend KF.20 Functions.

a. Delete paragraph A in its entirety, and replace it with the following:

KF.20 Functions. A. Offices of the Director. The Director is also the Assistant Secretary for Children and Families and is directly responsible to the Secretary for Carrying out OCSE's mission. The Deputy Director has day-to-day operational responsibility for Child Support Enforcement programs. The Associate Deputy Director for information Systems, who is also the Director of the ACF Office of Information Systems/Child Support Systems, has responsibility for day-to-day management of child support information systems. The Deputy Director assists the Director in carrying out responsibilities of the Office and oversees day-to-day operation of OCSE's Audit, Program Operations, Policy and Planning and Consumer Services Divisions. The Associate Deputy Director assists the Deputy Director in carrying out the responsibilities of the Office.

The Office is responsible for developing regulations, guidance and standards for states to observe in locating absent parents; establishing paternity and support obligations and enforcing support obligations; maintaining relationships with Department officials, other federal departments, state and local officials, and private organizations and individuals interested in the CSE program; coordinating and planning child support enforcement activities to maximize program effectiveness; and approving all instructions, policies and publications issued by OCSE staff.

Within the Office of the Director, administrative staff assist the Director, Deputy Director and Associate Deputy Director in managing the formulation and execution of program and salaries and expense budgets; and in providing administrative, personnel and data processing support services.

b. Delete paragraph C in its entirety, and replace it with the following:

C. Division of Program Operations assesses state performance and provides information and assistance on program operations. It monitors implementation of program requirements; coordinates child support enforcement activities with regional offices; develops guides and resource materials for use by states and ACF regional offices; documents specialized program techniques for use by states and local agencies; and ensures transfer of best practices among state and local support enforcement agencies. The Division provides specialized services and operation of the Federal Parent Locator Service, the Federal Tax Refund Offset Program, Project 1099, the IRS Full Collection Project and the Parental Kidnapping Service. It develops and publishes informational materials and operates a training center on child support programs; and monitors contracts with organizations affiliated with child support enforcement programs. It provides liaison services to a variety of special interest populations concerning collections of child support.

c. Add paragraph E. Add the following to establish paragraph E:

E. Division of Consumer Services provides direction and leadership for a variety of consumer affairs activities in support of the nationwide child support enforcement program. Provides advice on strategies and approaches to be used to improve public understanding of and access to OCSE programs and policies. Promotes ''best'' child support practices to the public through monthly publication of the Child Support Report. Advises the Director, OCSE of the impact of child support enforcement policy and program upon consumers and provides a focal point for consumer relations and consultation.

Dated: July 31, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 95–19278 Filed 8–3–95; 8:45 am]

BILLING CODE 4184–01–M

National Institutes of Health

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 Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Chemistry and Related Sciences.

Date: August 9, 1995.

Time: 2:00 p.m.

Place: NIH, Rockledge II, Room 5150, Telephone Conference.

Contact Person: Dr. Zakir Bengali, Scientific Review Administrator, 6701 Rockledge Drive, Room 5150, Bethesda MD 20892, (301) 534–1742.

The meeting will be closed in accordance with the provisions set forth in secs. 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.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(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: July 31, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–19397 Filed 8–3–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–48]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: August 4, 1995.

ADDRESSES: For further information, contact David Pollack, Department of Housing and Urban Development, Room 7254, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988

court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 28, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 95–19135 Filed 8–3–95; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Administration

[Docket No. FR–3876–D–01]

Revocation and Delegation of Procurement Authority

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of revocation and redelegation of procurement authority.

SUMMARY: This notice revokes current redelegations of procurement authority to the Field and Headquarters staff. It implements the final phase of the field reorganization of procurement authority for the Office of Administration. In this phase, procurement authority in the Field is consolidated under three Administrative Service Centers. This document makes no changes to the procurement authority redelegated to the President of the Government National Mortgage Association (GNMA).

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Room 5262, 451 7th Street S.W., Washington, D.C. 20410, (202) 708–0294. A telecommunications device for the hearing impaired (TDD) is available at 202–708–1112. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In November of 1993, the Secretary announced the reorganization of HUD's field structure to improve HUD's performance and provide HUD's customers (members of the public and program beneficiaries) more efficient service and less bureaucracy by empowering HUD employees to serve HUD's customers more effectively. In implementing this objective, the Secretary decided to remove the Regional organizational layer and provide officials at lower organizational levels full authority to carry out program functions, with these Field Office officials reporting directly to program officials in Headquarters..

In a delegation of authority, published on April 15, 1994 at 59 FR 18276, the Secretary of Housing and Urban Development revoked all delegations of procurement authority, and issued a new delegation which consolidated into a single document all delegations of procurement authority to the Assistant Secretary for Administration (the Department's Senior Procurement Executive.) On that same day, the Assistant Secretary for Administration published a redelegation of procurement authority, at 59 FR 18277, implementing the initial phase of the field reorganization of procurement authority for the Office of Administration. In that redelegation, the Assistant Secretary for Administration revoked all redelegations of procurement authority, and issued a new redelegation consolidating into one document all redelegations of procurement authority to HUD Headquarters and Field staff.

In this phase of HUD's Field reorganization, Administrative Service Centers (ASCs) will be established to consolidate and expedite contracting, personnel, accounting, facilities, management information, and other common administrative support functions. On October 27, 1994, the Assistant Secretary for Administration announced the selection of three ASCs: New York, Atlanta and Denver. Accordingly, in this notice, the Assistant Secretary for Administration is revoking the redelegation issued on April 15, 1994, including all procurement authority redelegated to Regional and Field Office officials. In this new redelegation reflecting the changed Field organizational structure, authority is redelegated to each ASC Director and ASC Contracting Division Director. In addition, this document gives HUD procurement officials increased flexibility: The Director, Office of Procurement and Contracts (OPC), at the Headquarters Office, has the authority to award and administer contracts which are national in scope or which may cover more than one ASC service area; and ASC contracting officials have the authority to meet changing workload demands by further redelegating certain procurement authority to qualified HUD field personnel, as specified.

Lastly, in this document, the redelegations to the Field staff and to the Director, OPC, at the Headquarters Office, are revised to streamline the Department's management of the Governmentwide Commercial Credit Card Program. However, this redelegation does not address the Government Travel Card Program. American Express or other credit cards issued under the Government Travel Card Program may only be used to pay for authorized travel-related services for which the individual traveler is responsible.

Accordingly, the Assistant Secreatry for Administration revokes and redelegates authority as follows:

Section A. Redelegation of Authority

The Assistant Secretary for Administration, designated as the Department's Senior Procurement Executive, redelegatees the following power and authority:

1. The Director, Office of Procurement and Contracts, designated as the Department's principal Contracting Officer, is authorized to:

a. Enter into and administer all procurement contracts and interagency agreements for property and services required by the Department (including the placement of paid advertisements in newspapers;)

b. Enter into and administer grants and cooperative agreements in support of the Department's discretionary assistance programs;

c. Make determinations and findings regarding the use of advance payments under FAR Subpart 32.4 and HUDAR 2432.402; and,

d. Further redelegate the following authority which has been redelegated in this notice, to the headquarters and field personnel identified below, provided they meet experience, education, and training requirements established by the Senior Procurement Executive:

(i) The authority identified in Sections 1.a. and 1.b., above, to qualified Office of Procurement and Contracts personnel;

(ii) The authority identified in Sections 1.a. and 1.b., above, to the Directors, Administrative Service Center Contracting Divisions for purposes of awarding and adminsitering contracts or other agreements which are national in scope or which cover more than one Administrative Service Center service area;

(iii) To qualified Departmental employees, the authority to engage in the following purchasing procedures:

1. Small purchases (FAR Part 13);

2. Issuance of delivery orders under contracts established by other Government sources (FAR Part 8, e.g., GSA Federal Supply Schedules) or

under pre-priced indefinite-delivery contracts established by the Department; and,

3. Purchases using the Government-wide Commercial Credit Card system in accordance with the Department's directives governing credit card purchasing. Authority redelegated to the Commercial Credit Card Program Administrator may be further redelegated by the Program Administrator to qualified Headquarters employees for purchases within the micro-purchase threshold established in FAR Part 13.

2. The President of the Government National Mortgage Association (GNMA) is authorized to exercise procurement authority with respect to requirements related to GNMA's programmatic functions. The President of GNMA is authorized to redelegate any of the powers or authority redelegated to him or her to qualified GNMA employees.

3. Each Director, Administrative Service Center (ASC), and Director, ASC Contracting Division, is designated as a Contracting Officer and is authorized to, subject to any limitations imposed by the Senior Procurement Executive:

a. Enter into and administer all procurement contracts and interagency agreements for property and services required by the Department (including the placement of paid advertisements in newspapers) with regard to: Activities within his or her ASC service area; or, activities which may be national in scope or which cover more than one ASC service area when specifically delegated by the Director, Office of Procurement and Contracts. However, any purchase of Federal Information Processing (FIP) supplies or services (i.e., ADP-related contract actions) requires the prior approval of the Director, Office of Information Policies and Systems;

b. Order a Limited Denial of Participation sanction, pursuant to HUD regulations at 24 CFR 24.700;

c. Make determinations and findings regarding the use of advance payments under FAR Subpart 32.4 and HUDAR 2432.402;

d. Further redelegate the award and administration of an individual or class of procurement contracts or interagency agreements to another director, ASC Contracting Division, with the concurrence of the Senior Procurement Executive; and,

e. Further redelegate the authority redelegated in paragraph 3.a., above, to any of the following personnel, provided that they meet experience, education, and training requirements established by the Senior Procurement Executive and provided that any other requirements listed below are met:

(i) To ASC Contracting Division personnel;

(ii) To Office of Housing personnel in State or Area Offices within the ASC service area for procurement contracts which concern programmatic functions and which are funded by the FHA Fund. At a minimum, this authority shall be delegated to a specific Office of Housing management official designated by the Assistant Secretary for Housing-Federal Housing Commissioner in each State and Area Office for the following purposes:

1. Emergency procurement authority;

2. Small purchase authority (FAR Part 13) in offices without full-time contracting personnel.

The Office of Housing will be given 30 days advance notice if any of the above authority in paragraph 3.e.(ii) will be withdrawn and subsequently redelegated to ASC personnel.

(iii) To Administration personnel within the ASC service area for the following purposes:

1. Small purchases (FAR Part 13); and,

2. Issuance of delivery orders under contracts established by other Government sources (FAR Part 8, e.g. GSA Federal Supply Schedules) or under pre-priced indefinite-delivery contracts established by the Department.

(iv) To Departmental personnel within the ASC service area, for purchases using the Governmentwide Commercial Credit Card system, in accordance with the Department's directives governing credit card purchasing. Authority redelegated to the Director, Administrative Resources Division may be further redelegated by that Director to qualified field personnel within the service area for purchases within the micro-purchase threshold established in FAR Part 13.

Section B. Authority Revoked

All power and authority redelegated at Section A. of the Notice of Redelegation of Authority, published on April 15, 1994 at 59 FR 18277, is revoked.

Authority: Sec. 7(d), Department of Housing and Urban Development Act [42 U.S.C. 3535(d)].

Dated: July 28, 1995.

Marilynn A. Davis,

Assistant Secretary for Administration.

[FR Doc. 95–19224 Filed 8–3–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Joint Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) Regarding the Application for Incidental Take and Implementation of a Long-Term Habitat Conservation Plan for the Stephens' Kangaroo Rat, an Endangered Species, in Western Riverside County, CA

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of availability and public meeting.

SUMMARY: This notice advises the public that the draft Joint Environmental Impact Statement/Environmental Impact Report on the application to Incidentally Take Stephens' Kangaroo Rat (SKR) in Riverside County, California, is available for public review. The Riverside County Habitat Conservation Agency (RCHCA) has applied to the U.S. Fish and Wildlife Service (Service) for a 30-year Incidental Take Permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Service also advises the public that the application package prepared by the RCHCA, which includes the SKR Long-term Habitat Conservation Plan (HCP), Implementing Agreement (IA), and Incidental Take Permit Application, is available for public review. Comments are requested and a public hearing will be held. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments are requested by September 18, 1995. A public meeting will be conducted on September 6, 1995, in Riverside, California, beginning at 1:00 pm. Agency representatives will be available to answer questions and receive either written or oral comments concerning the draft Joint EIS/EIR.

ADDRESSES: Written comments should be addressed to: Gail C. Kobetich, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Ave. West, Carlsbad, California 92008. Written comments may also be sent by facsimile to (619) 431–9618. The public meeting will be held at the Board of Supervisors Meeting Room, County Administrative Center, 14th Floor, 4080 Lemon Street, Riverside, CA.

FOR FURTHER INFORMATION CONTACT: Pete Sorensen, Endangered Species Division Chief, U.S. Fish and Wildlife Service,

Carlsbad Field Office, 2730 Loker Ave. West, Carlsbad, California 92008.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of this draft Joint EIS/EIR for review should immediately contact the U.S. Fish and Wildlife Service Carlsbad Field Office at the above referenced address, or by telephone at (619) 431–9440. Individuals wishing to review the SKR Long-term HCP and IA should immediately contact the RCHCA at (909) 275–1100. Documents will be available for public inspection by appointment during normal business hours (8 am to 5 pm, Monday through Thursday) at the RCHCA, 4080 Lemon Street, 12th Floor, Riverside, California 92501. Documents will also be available for public inspection by appointment during normal business hours (8 am to 5 pm, Monday through Friday) at the Service's Office at the above referenced address and telephone. Documents will also be available for public inspection at numerous libraries throughout the planning area. The location of specific libraries having copies can be obtained by contacting the Service at the above number. Copies of the draft EIS have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

Background

The Service listed the SKR as an endangered species, effective October 31, 1988 (53 FR 38485). Because of its listing as an endangered species, the SKR is protected by the Act's prohibition against ''take'', that is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect the species, or attempt to engage in such conduct (16 U.S.C. 1538). The Service, however, may issue permits to conduct activities involving endangered species under certain circumstances, including carrying out scientific purposes, enhancing the propagation or survival of the species, or incidentally taking the species in connection with otherwise lawful activities.

The RCHCA presently has a short-term 10(a)(1)(B) permit (PRT–739678) from the Service to incidentally take SKRs in connection with various proposed public and private projects in the western portion of Riverside County. Under the program established through this interim permit, SKR habitat in public and private ownership is being acquired and managed for the long-term benefit of the species. Acquisition of private lands is funded in part from mitigation fees collected by the RCHCA as developments proceed.

As intended when the interim permit was granted in August 1990, the RCHCA is applying to the Service for a 30-year incidental take permit for the same purposes. The area covered by the proposed 30-year permit will include much of the historical range of the SKR in Riverside County. The procedures for the RCHCA to incidentally take SKRs under the proposed 30-year permit are evaluated in the EIS/EIR.

This draft Joint EIS/EIR has been developed cooperatively by the Service's Carlsbad Field Office (lead agency for the draft EIS), the RCHCA, and California Department of Fish and Game.

In the development of this draft Joint EIS/EIR, the Service has initiated action to assure compliance with the purpose and intent of the National Environmental Policy Act of 1969 (NEPA), as amended. Scoping activities were undertaken preparatory to developing the draft EIS with a variety of Federal, State, and local entities. A Notice of Intent to prepare the EIS was published in the **Federal Register** on March 2, 1993.

The RCHCA's preparation of the long-term HCP has been on-going since the short-term permit was authorized. In March 1993 the Service and the RCHCA initiated a joint scoping process for the preparation of a joint EIS/EIR in anticipation of the Service receiving a permit application for a 30-year Section 10(a) permit for incidental take of SKR. The scoping process was initiated in accordance with NEPA to solicit comments on issues and alternatives to be addressed in the EIS/EIR. Because of the extended 2-year scoping process, a draft Scoping Report was prepared to update public knowledge of the scoping process. That report summarizes the 2-year scoping process, identifies the scoping issues raised by interested parties at public meetings and in written statements, and outlines the issues and alternatives that will be addressed in the draft EIS/EIR. The availability of the draft Scoping Report was published in the **Federal Register** on March 24, 1995.

Key issues addressed in this draft EIS/EIR are identified as the effects that implementation of various alternatives would have upon: (1) The endangered SKR; (2) other wildlife and their habitats; (3) land uses and general plans; (4) provision of public facilities, services and utilities; and (5) social and economic conditions.

More than 10 alternatives were considered before limiting the alternatives to be advanced for further study. Ultimately, 4 alternatives were selected for detailed analysis: (1) Proposed Action/Project (approve and implement the Long-term SKR HCP); (2) Expanded Conservation/Protection (conserve more SKR habitat); (3) Existing Reserves/Public Lands (focus on SKR habitat already protected); and (4) a No Project/No Action Alternative (assume no regional program). The Service will identify its preferred alternative and environmentally preferable alternative as defined in the NEPA in the final EIS/EIR.

Each alternative was evaluated in terms of its potential to result in significant adverse impacts, and the adequacy or inadequacy of the proposed measures to avoid, minimize, and substantially lessen the effects.

Dated: July 27, 1995.

David L. McMullen,

Acting Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 95–19115 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[AK–964–1410–00–P; F–14944–A]

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(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Tozitna, Limited for approximately 330 acres. The lands involved are in the vicinity of Tanana, Alaska, within T. 4 N., R. 22 W., Fairbanks Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. 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 September 5, 1995 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.

Elizabeth Sherwood,

Land Law Examiner, Branch of Northern Adjudication.

[FR Doc. 95–19210 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–JA–P

[NV–030–5700–10; Closure Notice No. NV–030–95–05]

Temporary Closure of Public Lands; Washoe County, Nevada

AGENCY: Bureau of Land Management, Nevada.

SUMMARY: The Carson City District Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 1995 Reno National Championship Air Races.

EFFECTIVE DATES: September 11 through September 17, 1995.

FOR FURTHER INFORMATION CONTACT: James M. Phillips, Lahontan Resource Area Manager, Carson City District Office, 1535 Hot Springs Road, Carson City, Nevada 89706–0638. Telephone (702) 855–6100.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T.21 N.,R. 19 E.
Sec. 8, N½NE¼, SE¼NE¼ and E½SE¼
Sec. 16, N½ and SW¼
Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is posted in the Carson City District Office of Bureau of Land Management.

Dated: July 25, 1995.

James M. Phillips,

Area Manager, Lahontan Resource Area.

[FR Doc. 95–19229 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–HC–M

[WY–030–05–1310–01]

Notice of Availability of Greater Wamsutter Area II Natural Gas Project Final Environmental Impact Statement

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Greater Wamsutter Area II (GWA II) Natural Gas Project Final Environmental Impact Statement analyzing the environmental consequences of a proposed natural gas exploration, development, and production operation in the Wamsutter Area II of southwestern Carbon and southeastern Sweetwater Counties, Wyoming. The project area encompasses approximately 334,919 acres within portions of Townships 16 through 22 North, Ranges 92 through 95 West.

DATES: Comments on the Final Environmental Impact Statement will be accepted for 30 days following the date the Environmental Protection Agency (EPA) publishes their Notice of Availability in the **Federal Register**. The EPA notice is expected to be published on August 4, 1995. There are no plans to hold a public meeting on the Greater Wamsutter Area II Natural Gas Project. Reviewers are encouraged to visit the local BLM offices in Cheyenne and Rawlins to talk with the managers about any concerns.

ADDRESSES: Comments on the Final Environmental Impact Statement should be sent to Mr. John Spehar, Great Divide Resource Area, Bureau of Land Management, P.O. Box 880, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Mr. John Spehar, Great Divide Resource Area, Bureau of Land Management, P.O. Box 880, Rawlins, Wyoming 82301, phone 307–324–4841.

SUPPLEMENTARY INFORMATION: The Final Environmental Impact Statement analyzes three project development alternatives and a no action alternative. The proposed project provides a maximum development of 750 wells and 300 locations within the GWA II analysis area in addition to existing operations.

The proposed project would affect 2,416 acres, bringing the total disturbance area within the GWA II area to 14,943 acres of land. The proposed project entails drilling, completion testing, production, abandonment, and reclamation of natural gas operations by Union Pacific Resources Company, Amoco Production Company, and others. Impacts to most resources would be negligible to moderate during the life of the project. The proposed project would have beneficial impacts associated with increased revenues generated by taxes, royalties, and the use of local goods and services. This Final Environmental Impact Statement is in compliance with Section 7(c) of the Endangered Species Act (as amended) and includes a Biological Assessment for the purpose of identifying any endangered or threatened species which are likely to be affected by the proposed action.

Dated: July 24, 1995.

Alan Kesterke,

Acting State Director.

[FR Doc. 95–19211 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–22–P

National Park Service

Notice of Availability of the Final General Management Plan and Final Environmental Impact Statement for Fort Clatsop National Memorial, Oregon

SUMMARY: Pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a Final General Management Plan/Environmental Impact Statement (GMP/FEIS) that describes and analyzes a proposal and three alternatives to meet immediate and long-term needs at Fort Clatsop National Memorial; these alternatives address visitor use and the preservation of the natural and cultural resources that provide the environment in which the Lewis and Clark story is presented to the public.

A Notice of Availability of the Draft General Management Plan/Environmental Impact Statement (GMP/DEIS) was published in the **Federal Register** on 3 November 1993 (58 FR 211), with the public comment period to close on 7 January 1994; responding to a request that additional time be provided for review and comment, the review period was extended until 7 February 1994 through notices in the local media and the 5 January 1994 issue of the **Federal Register** (59 FR 3). During this comment period, three public meetings were held and written comments were also received. The GMP/FEIS contains responses to the comments received and modifications to the document as needed in response to the comments.

The proposal, which was developed in response to public and agency comments on the GMP/DEIS, calls for: (1) Establishment of a trail between the Fort and the Pacific Ocean; (2) addition of approximately 963 acres to the Memorial's boundary; (3) coordination of interpretive activities with other public and private entities throughout the lower Columbia River region; and (4) increasing the Memorial's staffing levels.

Three alternatives were considered, in addition to the proposal. The No-Action Alternative would maintain the existing

conditions: no Fort-Ocean trail would be developed; current size of the Memorial would be maintained at 125 acres; no new coordination initiatives would be undertaken; and staffing levels would not be increased. The Minimum Requirements Alternative would add a Fort-Ocean trail and increase the Memorial's boundary to encompass an additional 963 acres; some additional interpretive coordination activities would be undertaken by virtue of slightly increased staff numbers. The fourth alternative would expand the Memorial's natural resource base to enhance the historic setting of the Memorial; it would add approximately 2,315 acres to the park, develop a Fort-Ocean trail with a commensurate increase in staffing to manage the larger land base.

Major impact topics assessed for the proposed action and the alternatives include cultural and natural resources, visitor use, interpretation, regional cooperation, park facilities/staffing/operations, visual/aural qualities, adjacent land uses and boundary adjustment/land protection.

SUPPLEMENTARY INFORMATION: The no-action period on this final plan and environmental impact statement will end 30 days after the Environmental Protection Agency has published a notice of availability of the GMP/FEIS in the **Federal Register**. For further information, contact: Superintendent, Fort Clatsop National Memorial, Route 3, Box 604–FC, Astoria, OR 97103–9803; telephone (503) 861–2471.

Copies of the GMP/FEIS will be available at Fort Clatsop National Memorial, as well as the following locations: Office of Public Affairs, National Park Service, Department of the Interior, 1849 C Street, NW., Washington, DC; and National Park Service, Columbia Cascades System Support Office, 909 First Ave., Seattle, WA.

Dated: July 25, 1995.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 95–19167 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

South Bay Water Recycling Project, San Jose, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Correction notice of availability and notice of public hearings on the draft environmental impact statement: INT DES–95–36.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended), the Bureau of Reclamation (Reclamation) has prepared a draft environmental impact statement (DEIS) for the South Bay Water Recycling Project (SBWRP). The DEIS is based on a 1992 environmental impact report (EIR) prepared by the City of San Jose (City). The SBWRP would divert treated freshwater effluent from South San Francisco Bay through a water reclamation program. This would include construction of pump stations and recycled distribution pipelines. Reclamation would provide a grant of up to 25 percent of the total project cost to the City to support the SBWRP. A public hearing will be held to receive written or verbal comments on the DEIS from interested organizations and individuals on the environmental impacts of the proposal. This notice corrects the date of availability of the draft environmental impact statement published in 60 FR 37902, Jul 24, 1995 to August 2, 1995.

DATES: The DEIS will be available on August 2, 1995 for a 60-day public review period.

A public hearing on the DEIS will be held on August 23, 1995 at 4:00 p.m. at the San Jose Convention Center, First Floor, Room L, 150 West San Carlos Street, San Jose, CA 95113.

ADDRESSES: Written comments on the DEIS and requests for copies of the DEIS should be addressed to Mona Jefferies-Soniea, Bureau of Reclamation, Division of Resources Management Planning, 2800 Cottage Way, Sacramento, CA 95825; telephone: (916) 979–2297.

Copies of the DEIS are also available for public inspection and review at the following locations:

- Bureau of Reclamation, Mid-Pacific Regional Liaison, 1849 C Street NW., Washington, DC 20240; telephone: (202) 208–6274.
- Bureau of Reclamation, Regional Director, Attn: MP–720, 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: (916) 979–2297.
- Bureau of Reclamation, Mid-Pacific Regional Library, 2800 Cottage Way, Sacramento, CA. 95825–1898; telephone: (916) 979–2462.
- City of San Jose, Environmental Services Department, Tech. Support Division, 700 Los Esteros Road, San Jose, CA 95134; telephone: (408) 945–5300.

Libraries

Copies will also be available for inspection at public libraries located in San Jose (Main, Alviso, Berryessa, East San Jose, Carnegie, and Empire Branches).

FOR FURTHER INFORMATION CONTACT: Ms. Jefferies-Soniea at the above address and telephone.

SUPPLEMENTARY INFORMATION: The SBWRP, formerly known as the San Jose Nonpotable Reclamation Project, was developed in response to an order from the Environmental Protection Agency (EPA) and San Francisco Regional Water Quality Control Board in order to re-establish salinity levels of the salt water marsh in the southern tip of San Francisco Bay. In addition to protecting the South Bay habitat, the program also develops nonpotable water supply for the Santa Clara Valley, which can be used in place of potable water for appropriate purposes. Funding will come from loans from the State Water Resources Control Board and EPA, a grant from Reclamation, and local funding.

The SBWRP would be implemented in two phases: Phase I would consist of installing facilities to supply up to 9,000 acre-feet/year of nonpotable water for landscape irrigation, agriculture and industrial uses. Phase II would consist of installing facilities to supply an additional up to 27,000 acre-feet/year for either nonpotable or potable use.

The City completed a final EIR for the SBWRP in November 1992. At that time, Reclamation had not been involved and therefore no compliance with NEPA was needed. The EIS will be based on this final EIR. The EIR analyzed Phase I in detail and analyzed Phase II programmatically.

The proposed action (Phase I) is to construct pump stations, storage tanks, 48.5 miles of 6 to 54-inch diameter pipeline and appurtenant facilities in the cities of San Jose, Santa Clara, and Milpitas. There would also be minor modifications of the existing San Jose/Santa Clara Water Pollution Control Plant to provide additional chlorination.

Alternatives to the proposed action include:

- Pipeline Alignment Alternative, to avoid construction of pipelines near residences.
- Flow Allocation Alternative, which would allocate most of the reclaimed water for potable uses. The water would be used for groundwater recharge, mainly using percolation basins.
- Habitat Enhancement Alternative, to also supply water to riparian restoration areas along creeks and rivers in the study area, as well as for potable and other nonpotable purposes.
- No Action.

Hearing Process Information

Written comments, for inclusion in the hearing record, from those unable to attend the hearing or wishing to supplement their oral presentation should be received at the Bureau of Reclamation by September 6, 1995.

Note: If special assistance is required, contact Mona Jefferies-Soniea at (916) 979–2297. Please notify Ms. Jefferies-Soniea as far in advance of the hearings as possible and not later than 1 week prior to the hearing date to enable Reclamation to secure the needed services. If a request cannot be honored, the requester will be notified.

Dated: July 28, 1995.

Dan M. Fults,

Acting Regional Director.

[FR Doc. 95–19213 Filed 8–3–95; 8:45 am]

BILLING CODE 4310–94–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-No. 366X]

Burlington Northern Railroad Company; Abandonment Exemption; in Buchanan County, MO

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR part 1152 Subpart F—Exempt Abandonments to abandon 0.85 miles of rail line between milepost 142.19 and milepost 143.04 in the City of St. Joseph, in Buchanan County, MO.

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 3, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by August 14, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 24, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Assistant General Counsel, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5348.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 9, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 28, 1995.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–19226 Filed 8–3–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–449 (Sub-No. 1X)]

Western Kentucky Railway, L.L.C.—Abandonment Exemption—in Union County, KY

Western Kentucky Railway, L.L.C. (WKR), has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon 20 miles of its line between milepost JE48.0 north of Dekoven, and milepost JE28.0 at Waverly, in Union County, KY.

WKR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic that could move over the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 2, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the

file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by August 14, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 23, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Ave., N.W., Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Kelvin J. Dowd, Esq., Slover & Loftus, 1224 17th St., N.W., Washington, D.C. 20036.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

WKR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 8, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 28, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–19227 Filed 8–3–95; 8:45 am]

BILLING CODE FR–7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–16]

Barnett J.W. Grier, Jr., M.D., Revocation of Registration

On November 1, 1993, the Deputy Assistant Administrator (then-Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Barnett J.W. Grier, Jr., M.D. of Beverly Hills, California (Respondent), proposing to revoke his DEA Certificate of Registration, BG2764226, and deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that the continued registration of Respondent was inconsistent with the public interest and that Respondent was no longer authorized to handle controlled substances in the State of California. 21 U.S.C. 823(f) and 824(a) (3) and (4).

On December 9, 1993, Respondent requested a hearing and the proceeding was docketed before Administrative Law Judge Mary Ellen Bittner. Following filing of prehearing statements by both parties, the Government filed a motion for summary disposition on November 30, 1994. No response was filed by Respondent. No evidentiary hearing was held as there were no factual issues involved, only a question of law. The administrative law judge issued her opinion and recommended decision on December 23, 1994. No exception were filed by either party.

On January 23, 1995, the administrative law judge transmitted the record of the proceeding to the Deputy Administrator. After careful consideration of the record in its entirety, the Deputy Administrator enters his final order in this matter, in accordance with 21 CFR 1316.67, based on conclusions of law and facts contained in the record which were not disputed, as set forth herein.

On October 24, 1987, the California Medical Board suspended Respondent's state medical license for ninety days and placed him on probation for eight years upon a finding that Respondent failed to supervise a physician's assistant and that such failure constituted an extreme departure from the Standard of medical practice in Southern California. On May 13, 1991, Respondent falsified an application for a new DEA Certificate of Registration by answering ''no'' to the liability question concerning revocation, suspension, denial, restriction, or probation of state professional license or controlled substance registration.

On October 2, 1992, the California Medical Board petitioned to revoke Respondent's probation because he had violated the terms of his probation by issuing numerous prescriptions for controlled substances, including Promethazine with codeine, Emperin with codeine, Tylenol #3 with codeine, and Phenergan with codeine for other than a legitimate medical purpose. The California Medical Board also found that Respondent had prescribed, dispensed or furnished dangerous drugs without a good faith prior medical examination; and submitted Quarterly Reports, executed under penalty of perjury, falsely reporting compliance with both Federal and State laws. On February 29, 1993, Respondent pled *nolo contendere* in absentia to six counts of state criminal charges involving controlled substances. On August 3, 1993, the California Medical Board revoked Respondent's license to practice medicine in the State of California effective September 3, 1993.

On October 14, 1992, Respondent requested a modification of his DEA registration from California to Georgia. On November 3, 1994, the Georgia Composite State Board of Medical Examiners revoked Respondent's license to practice medicine in the State of Georgia. Respondent does not deny that he is not licensed in California or Georgia.

DEA has consistently held that it does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized to dispense controlled substances by the state in which he proposes to practice. *See Lawrence R. Alexander, M.D.*, 57 FR 22256 (1992); *Bobby Watts, M.D.*, 53 FR 11919 (1988); *Robert F. Witek, D.D.S.*, 52 FR 4770 (1987). In such cases, a motion for summary disposition is properly entertained. There is no need for a plenary evidentiary hearing since there are no questions of fact to be resolved by such a hearing. *Phillip E. Kirk, M.D.*, 48 FR 32887 (1983), aff'd sub nom, *Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984); *Floyd A. Santner, M.D.*, 47 FR 51831 (1982). Therefore, because Respondent is no longer authorized to handle controlled substances in the State of California or the State of Georgia, the states in which Respondent proposes to practice, the Deputy Administrator cannot permit him to maintain a DEA Certificate of Registration in either state.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BG2764226, previously issued to Barnett J.W. Grier, Jr., M.D., be, and it is hereby, revoked, and any pending application for renewal of such registration be, and they hereby are, denied, and that any request for modification be, and it hereby is, denied. This order is effective September 5, 1995.

Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

Dated: July 28, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–19168 Filed 8–3–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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 June 13, 1994, 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: Electric Power Generation Transmission and Distribution; Electrical Protective Equipment; as published in the **Federal Register** (59 FR 4435, dated January 31, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested March 16, 1994; hearing scheduled for April 7, 1994; (no comments were received). The standard was effective May 11, 1994; and notice of its adoption was published by the State on May 11, 1994.

In the June 13, 1994 letter, the State also submitted State standards comparable to: Hazard Communication; as published in the **Federal Register** (59 FR 6169, dated February 9, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested March 16, 1994; hearing scheduled for April 7, 1994; (no comments were received). The standard was effective May 11, 1994; and notice of its adoption was published by the State on May 11, 1994.

In the June 13, 1994 letter, the State also submitted State standards comparable to: Occupational Safety and Health Standards for Cadmium for Shipyards Employment and Construction, Redesignation; as published in the **Federal Register** (59 FR 215, dated January 3, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested March 16, 1994; hearing scheduled for April 7, 1994; (no comments were received). The standard was effective May 11, 1994; and notice of its adoption was published by the State on May 11, 1994.

In the June 13, 1994 letter, the State also submitted State standards comparable to: Hazard Communication; as published in the **Federal Register** (59 FR 6170, dated February 9, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested March 16, 1994; hearing scheduled for April 7, 1994; (no comments were received). The standard was effective May 11, 1994; and notice of its adoption was published by the State on May 11, 1994.

By letter dated July 29, 1994, 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: Personal Protective Equipment for General Industry; as published in the **Federal Register** (59 FR 16360, dated April 6, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested May 11, 1994; hearing scheduled for June 2, 1994; (no comments were received). The standard was effective July 6, 1994; and notice of its adoption was published by the State on July 6, 1994.

By letter dated October 19, 1994, 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: Permit-Required Confined Spaces, technical amendment; as published in the **Federal Register** (59 FR 26115, dated May 19, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested July 20, 1994; hearing scheduled for August 11, 1994; (no comments were received). The standard was effective September 14, 1994; and notice of its adoption was published by the State on September 14, 1994.

In the October 19, 1994 letter, the State also submitted State standards comparable to: Electric Power Generation, Transmission, and distribution; electrical protective equipment, correction; as published in the **Federal Register** (59 FR 33661, dated June 30, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested August 3, 1994; hearing scheduled for August 25, 1994; (no comments were received). The standard was effective September 28, 1994; and notice of its adoption was published by the State on September 28, 1994.

In the October 19, 1994 letter, the State also submitted State standards comparable to: Personal Protective Equipment for General Industry, correction; as published in the **Federal Register** (59 FR 33910, dated July 1, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested August 3, 1994; hearing scheduled for August 25, 1994; (no comments were received). The standard was effective September 28, 1994; and notice of its adoption was published by the State on September 28, 1994.

In the October 19, 1994 letter, the State also submitted State standards comparable to: Retention of DOT Markings, Placards, and Labels; as published in the **Federal Register** (59 FR 36699, dated July 19, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested July 20, 1994; hearing scheduled for August 11, 1994; (no comments were received). The standard was effective September 14, 1994; and notice of its adoption was published by the State on September 14, 1994.

By letter dated February 21, 1995, 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: Safety Standards for Fall Protection in the Construction industry; as published in the **Federal Register** (59 FR 40729, dated August 9, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 14, 1994; hearing scheduled for October 6, 1994; (no comments were

received). The standard was effective November 9, 1994; and notice of its adoption was published by the State on November 9, 1994.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Occupational Exposure to Asbestos; as published in the **Federal Register** (59 FR 41057, dated August 10, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 14, 1994; hearing scheduled for October 6, 1994; (no comments were received). The standard was effective November 9, 1994; and notice of its adoption was published by the State on November 9, 1994.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Hazardous Waste Operations and Emergency Response; as published in the **Federal Register** (59 FR 43270, dated August 12, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 28, 1994; hearing scheduled for October 20, 1994; (no comments were received). The standard was effective November 23, 1994; and notice of its adoption was published by the State on November 23, 1994.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Logging Operations; as published in the **Federal Register** (59 FR 51741, dated October 12, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested November 9, 1994; hearing scheduled for December 1, 1994; (no comments were received). The standard was effective February 1, 1995; and notice of its adoption was published by the State on February 1, 1995.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Safety Standards for Fall Protection in the Construction Industry; as published in the **Federal Register** (59 FR 40729, dated August 9, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 14, 1994; hearing scheduled for October 6, 1994; (no comments were received). The standard was effective November 9, 1994; and notice of its adoption was published by the State on November 9, 1994.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Occupational Exposure to Asbestos; as published in the **Federal Register** (59 FR 41131, dated August 10, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 14, 1994; hearing scheduled for October 6, 1994; (no comments were received). The standard was effective November 9, 1994; and notice of its adoption was published by the State on November 9, 1994.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Hazardous Waste Operations and Emergency Response; as published in the **Federal Register** (59 FR 43275, dated August 22, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested September 28, 1994; hearing scheduled for October 20, 1994; (no comments were received). The standard was effective November 23, 1994; and notice of its adoption was published by the State on November 23, 1994.

In the February 21, 1995 letter, the State also submitted State standards comparable to: Logging Operations; as published in the **Federal Register** (59 FR 51748, dated October 12, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comments requested November 9, 1994; hearing scheduled for December 1, 1994; (no comments were received). The standard was effective February 1, 1995; and notice of its adoption was published by the State on February 1, 1995.

By letter dated November 8, 1994, 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: Reporting of fatality or multiple hospitalization incidents; as published in the **Federal Register** (59 FR 15594, dated April 1, 1994). This standard, which is contained in Chapter 88 of the Code of Iowa (1993), was promulgated after public comments requested July 26, 1994; hearing scheduled for July 28, 1994; (no comments were received). The standard was effective October 26, 1994; and notice of its adoption was published by the State on October 26, 1994.

2. *Decision.* All of the above State submissions have been compared to federal standards and it has been determined that they are identical to the comparable federal standard and should therefore be approved. Having reviewed the State submission, in comparison with the Federal standards, it has been determined that the State standards, with the exception of 1904.8, are identical to the comparable Federal standards and should therefore be approved.

OSHA has determined that the State standard for 347–4.8(88) is at least as effective as the comparable Federal standard, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standards are minimal and that the standards are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

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, with the exception of 1904.8, 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 August 4, 1995.

(Section 18, Public Law 91–596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at Kansas City, Missouri, this 11th day of July, 1995.

Marcia Drumm,

Acting Regional Administrator.

[FR Doc. 95–19202 Filed 8–3–95; 8:45 am]

BILLING CODE 4510–26–M

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective data as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. OK950016, OK950018 and OK950024 dated February 10, 1994.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize the project determination procedure by submitting an SF–308. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 28th day of July 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–18982 Filed 8–3–95; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Company; Comanche Peak Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company (TU Electric, the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, located in Somervell County, Texas.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would consist of revisions to 10 CFR part 20 references to recognize the new section numbers, revise definitions to ensure consistency with 10 CFR part 20, and change administrative controls for reporting and recordkeeping to maintain compliance with the new 10 CFR part 20. The changes would revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents and reflect the relocation of the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the licensee's application for amendment dated August 12, 1994, implementing the new 10 CFR part 20.

The Need for the Proposed Action

The proposed action is needed in order to retain operational flexibility consistent with 10 CFR part 50, appendix I, concurrent with the implementation of the revised 10 CFR part 20.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action, in regard to the actual release rates as referenced in the Technical Specifications as a dose rate to the maximally exposed member of the public, and concludes that the change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the CPSES, Units 1 and 2, dated October 1989.

Agencies and Persons Consulted

In accordance with its stated policy, on July 20, 1995, the staff consulted with the Texas State official, Mr. Arthur Tate of the Texas Department of Health, Bureau of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for amendment dated August 12, 1994, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Dated Rockville, Maryland, this 27th day of July 1995.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–19197 Filed 8–3–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–456 and STN 50–457]

Commonwealth Edison Company (Braidwood Station, Units 1 and 2); Exemption

I

The Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating License Nos. NPF–72 and NPF–77, which authorize operation of Braidwood Station, Units 1 and 2 (the facilities). The licenses provide, among other things, that the facilities are subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Will County, Illinois.

II

In 10 CFR 73.55, ''Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage,'' paragraph (a), in part, states that ''the licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

In 10 CFR 73.55(d), ''Access Requirements,'' paragraph (1), it specifies that ''the licensee shall control all points of personnel and vehicle access into a protected area.'' Also, 10 CFR 73.55(d)(5) requires that ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.'' It further states that individuals not employed by the licensee (e.g., contractors) may be authorized access to protected areas without escort provided that the individual, ''receives a picture badge upon entrance into a protected area which must be returned upon exit from the protected area * * *.''

The licensee proposes to implement an alternative unescorted access system which would eliminate the need to issue and retrieve picture badges at the entrance/exit location to the protected area and would allow all individuals, including contractors, to keep their picture badges in their possession when departing the Braidwood site.

III

Pursuant to 10 CFR 73.5, ''Specific exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest. According to 10 CFR 73.55, the Commission may authorize a licensee to provide alternative measures for protection against radiological sabotage provided the licensee demonstrates that the alternative measures have the same ''high assurance'' objective, that the proposed measures meet the general performance requirements of the regulation, and that the overall level of system performance provides protection against radiological sabotage equivalent to that which would be provided by the regulation.

Currently, unescorted access into the protected area for both employee and contractor personnel into the Braidwood Station, Units 1 and 2, is controlled through the use of picture badges. Positive identification of personnel which are authorized and request access into the protected area is established by security personnel making a visual comparison of the individual requesting access and that individual's picture badge. In accordance with 10 CFR 73.55(d)(5), contractor personnel are not allowed to take their picture badges off site. In addition, in accordance with the plant's physical security plan, the licensee's employees are also not allowed to take their picture badges off site.

The proposed system will require that all individuals with authorized unescorted access have the physical characteristics of their hand (hand geometry) registered with their picture badge number in a computerized access control system. Therefore, all authorized individuals must not only have their picture badge to gain access to the protected area, but must also have their hand geometry confirmed. All individuals, including contractors, who have authorized unescorted access into the protected area will be allowed to keep their picture badges in their possession when departing the Braidwood site.

All other access processes, including search function capability and access revocation, will remain the same. A security officer responsible for access control will continue to be positioned within a bullet-resistant structure. It should also be noted that the proposed system is only for individuals with authorized unescorted access and will not be used for those individuals requiring escorts.

Sandia National Laboratories conducted testing which demonstrated that the hand geometry equipment possesses strong performance characteristics. Details of the testing performed are in the Sandia report, ''A Performance Evaluation of Biometric Identification Devices,'' SAND91—0276 UC—906 Unlimited Release, June 1991. Based on the Sandia report and the licensee's experience using the current photo picture identification system, the false acceptance rate for the proposed hand geometry system would be at least equivalent to that of the current system. To assure that the proposed system will continue to meet the general performance requirements of 10 CFR 73.55(d)(5), the licensee will implement a process for testing the system. The site security plans will also be revised to allow implementation of the hand

geometry system and to allow employees and contractors with unescorted access to keep their picture badges in their possession when leaving the Braidwood site.

IV

For the foregoing reasons, the NRC staff has determined that the proposed alternative measures for protection against radiological sabotage meet the same high assurance objective and the general performance requirements of 10 CFR 73.55. In addition, the staff has determined that the overall level of the proposed systems's performance will provide protection against radiological sabotage equivalent to that which is provided by the current system in accordance with 10 CFR 73.55.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, this exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the following exemption:

The requirement of 10 CFR 73.55(d)(5) that individuals who have been granted unescorted access and are not employed by the licensee are to return their picture badges upon exit from the protected area is no longer necessary. Thus, these individuals may keep their picture badges in their possession upon leaving the Braidwood site.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant adverse environmental impact (60 FR 38855).

Dated at Rockville, Maryland, this 28th day of July 1995.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–19198 Filed 8–3–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–334 and 50–412]

Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company (Beaver Valley Power Station, Units 1 and 2); Exemption

I

Duquesne Light Company, et al. (the licensee), is the holder of Operating License Nos. DPR–66 and NPF–73, which authorize operation of the Beaver Valley Power Station, Units Nos. 1 and 2, at steady state reactor core power levels not in excess of 2652 megawatts thermal (per unit). The licenses provide, among other things, that the licensee is subject to all rules, regulations and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are two pressurized water reactors located at the licensee's site in Beaver County, Pennsylvania

II

Section 50.54(o) of 10 CFR part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of appendix J to 10 CFR part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak tight integrity for the primary reactor containment and systems and components which penetrate the containment.

Section III.D.2(b)(ii) of appendix J to 10 CFR part 50 requires that an overall air lock Type B test shall be performed on air locks opened during periods when containment integrity is not required by the plant's Technical Specifications at the end of such periods at not less than P_a (the calculated peak containment internal pressure related to the design basis accident and specified either in the technical specification or associated bases). The overall air lock Type B tests are intended to detect local leaks and measure leakage across each pressure-containing or leakage-limiting boundary of the air locks.

III

By letter dated February 4, 1994, the licensee requested an exemption to the requirements of Section III.D.2(b)(ii) of 10 CFR part 50, appendix J. The proposed exemption would permit local leak rate testing to be substituted for an overall air lock leakage test where the design permits. The exemption would be applicable to only those air lock components which are designed to be local leakage rate tested at a pressure of at least P_a. The leakage rate of each component would then be measured and verified to be within acceptable limits (i.e., containment leakage would be limited such that offsite radiation exposures will not exceed the guidelines of 10 CFR part 100 in the event of a design basis accident).

IV

The licensee presented information in support of its request for an exemption from the requirements of section III.D.2(b)(ii) of appendix J to 10 CFR part 50. The proposed exemption would allow maintenance to be performed on the air lock that could affect its sealing capability without requiring performance of the overall air lock leakage test. The licensee indicated that performance of the overall air lock test is very time consuming and results in additional occupational radiation exposure. The proposed exemption would allow local leakage testing to be substituted for the overall air lock leakage test when the design of the components permits local leakage rate testing at a pressure of at least P_a. A leakage rate would then be measured in accordance with the requirements of appendix J. The typical air lock components which could be tested in this manner are components such as the o-ring seals on the personnel air lock door(s), the mechanical penetrations for the 18-inch escape hatches, and the equalizing valves located on each of the air lock doors. Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. * * *'' The underlying purpose of the airlock Type B testing is to ensure that each containment air lock will perform its safety function as part of the containment to control offsite radiation exposure resulting from a design basis accident. The proposed local leakage testing is sufficient to achieve the underlying purpose of the requirements of 10 CFR part 50, appendix J, section III.D.2(b)(ii) because it provides adequate assurance of the continued leak-tight integrity of the air lock(s). As a result, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

With respect to the requirements of 10 CFR 50.12(a)(1), the NRC staff has concluded that the requested action is authorized by law in that no prohibition of law exists which would preclude the activities which would be authorized by the exemption. In addition, for the reasons discussed above, the NRC staff has determined that the requested exemption does not present an undue risk to the public health and safety, is

consistent with the common defense and security and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2)(ii).

V

Based on the above, the NRC staff finds the requested exemption, to allow local leak rate testing to be substituted for an overall air lock leakage test where the design permits, acceptable. Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission finds that the special circumstances as required by 10 CFR 50.12(a)(2)(ii) are present.

An exemption is hereby granted from the requirements of section III.D.2(b)(ii) of appendix J to 10 CFR part 50, which requires an overall leakage test of air locks opened during periods when containment integrity is not required by the plant's Technical Specifications at the end of such periods at a pressure of not less than P_a. Local leak rate testing shall be substituted for the overall leakage test whenever this exemption is utilized.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant impact on the quality of the human environment (60 FR 30611).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 26th day of July 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–19199 Filed 8–3–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; 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 Nos. DPR–32 and DPR–37 issued to the Virginia Electric and Power Company (the licensee) for operation of the Surry Power Station, Units 1 and 2 located in Surry County, Virginia.

The proposed amendment would incorporate revised pressure/temperature (P/T) limits and an associated Low Temperature Overpressure System (LTOPS) setpoint that will be valid to the end-of-license (28.8 and 29.4 effective full power years for Units 1 and 2, respectively). The proposed change also incorporates analytical and operational features into the Surry design basis on the P/T operating margin. The request also updates the unirradiated reactor vessel material toughness data presented in the Technical Specifications to reflect the data previously provided to the NRC in the licensee's response to Generic Letter 92–01, Revision 1, ''Reactor Vessel Structural Integrity.''

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), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Specifically, operation of Surry Power Station in accordance with the Technical Specification changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The safety analysis demonstrates that the proposed reactor vessel protection philosophy, and the associated pressure/temperature limits, LTOPS setpoint, and component operability requirements, ensure that reactor vessel integrity will be maintained during normal operation and design basis accident conditions. Specifically, adherence to the heatup/cooldown rate-dependent pressure/temperature operating limits ensures that the assumed design basis flaw will not propagate during normal operation. Below the LTOPS enabling temperature, automatic actuation of the PORVs ensures that the assumed design basis flaw will not propagate under design basis low-temperature overpressurization accident conditions. Above the enabling temperature, two pressurizer safety valves are sufficient to relieve the overpressurization due to the inadvertent startup of two charging pumps at water solid conditions without propagation of the assumed design basis flaw.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed Technical Specifications modify pressure/temperature operating limits, LTOPS setpoint and enabling temperature, and component operability requirements. The revised pressure/temperature operating limits and LTOPS setpoint are only slightly different than those currently in the Technical Specifications. The LTOPS enabling temperature remains unchanged. No operating limits or setpoints are added or deleted by the proposed changes. Therefore, it may be concluded that the operating limits and setpoint changes do not create the possibility of a new or different kind of accident. With regard to component operability requirements, restrictions on the number of charging pumps which may be operable, the number of PORVs which must be operable, and the allowable temperature difference between the steam generator primary and secondary remain unchanged. Only the setpoint temperature at which these restrictions apply have been modified. The proposed changes are entirely consistent with the reactor vessel integrity protection philosophy which ensures that the design basis reactor vessel flaw will not propagate under normal operation or postulated accident conditions. Further, the proposed changes do not invalidate . . . any component design criteria or the assumptions of any UFSAR Chapter 14 accident analysis.

3. Involve a significant reduction in a margin of safety. As described above, the reactor vessel integrity protection philosophy ensures that the design basis assumed flaw will not propagate under normal operation or design basis accident conditions. Adherence to the Technical Specification pressure/temperature operating limits ensures that the margin to vessel fracture provided by the ASME Section XI methodology is maintained. With regard to LTOPS protection, the safety analysis demonstrates that the proposed LTOPS design ensures margins consistent with those provided by ASME Section XI Appendix G methods as amended by ASME Code Case N–514. Utilization of ASME Code Case N–514 technically results in a reduction in the margin of safety, since a less restrictive LTOPS analysis design limit (i.e., 110% of the isothermal limit curve) is employed. However, the proposed design has been demonstrated to provide an acceptable margin of safety. Both industry experience and engineering evaluation support the conclusion that LTOPS design basis events may be expected to occur at essentially isothermal conditions. An engineering evaluation demonstrates that any reduction in allowable pressure due to thermal stresses which may be expected to exist during an LTOPS design basis event is insignificant when compared to margins provided by the ASME Section XI Appendix G methods for calculating pressure/temperature operating limits. This design maximizes the operating margin above the minimum RCS pressure for

reactor coolant pump (RCP) operation, thereby minimizing the probability of undesired PORV lifts during RCP startup.

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 to 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.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 5, 1995, 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, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. 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 a 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, 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 David

B. Matthews: 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 Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, 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 June 8, 1995, which is available for public inspection at the commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 27th day of July 1995.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–I, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–19200 Filed 8–3–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26344]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 28, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 21, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ohio Power Company (70–5862)

Ohio Power Company (''OPCo''), 301 Cleveland Avenue, SW., Canton, Ohio 44702, a public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company has filed a post-effective amendment to its application-declaration under section 13 of the Act and rules 86, 87, 90 and 91 thereunder.

In accordance with the recommendation of the Commission's staff, resulting from its field audit of OPCo's Cook Coal Terminal, OPCo proposes that it adjust the cost of capital rate authorized in Commission order dated June 17, 1983 (HCAR No. 22977) to conform the rate to the current market. OPCo proposes that the overall rate of return on its investment in the Cook Coal Terminal would be subject to annual adjustment of the first day of April in each succeeding year based on changes in the rate of return on common equity most recently allowed by either (1) the Federal Energy Regulatory Commission in the last wholesale rate proceeding involving OPCo or (2) The Public Utilities Commission of Ohio in OPCo's most recent retail rate proceeding.

OPCo proposes to charge a cost-of-capital component on its investment in the Transcisco railcar maintenance facility, in which OPCo has an investment of approximately $350,000. OPCo proposes to use this same methodology to calculate the cost-of-capital rate associated with its railcar maintenance facility located at the Cool Coal Terminal and the Transcisco maintenance facility.

OPCo proposes to adjust the capitalization ratio on an annual basis, using OPCo's financial information as reported at December 31 of the preceding year. Similarly, the cost of debt and preferred stock would be updated to reflect the overall cost of debt and preferred stock at December 31 of the preceding year.

The rate changes resulting from this methodology would be applied for billing purposes to the 12-month period commencing on the April 1 subsequent to the applicable December 31 calculation. By adjusting the provision for the cost of capital, the cost of capital rate will be reduced from the 12.3% currently authorized to 10.12%, thus reducing the fees charged by OPCo. However, in the event the cost of debt or preferred stock or the return on common equity increases, the capital rate will likewise increase.

AEP Generating Company, et al. (70–7167)

AEP Generating Company, 1 Riverside Plaza, Columbus, Ohio 43215; Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24022; Columbus Southern Power Company, 215 North Front Street, Columbus, Ohio 43215; Indiana Michigan Power Company, One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46802; Kentucky Power Company, 1701 Central Avenue, P.O. Box 1428, Ashland, Kentucky 41101; Ohio Power Company, 301 Cleveland Avenue, SW., Canton, Ohio 44702, all public-utility subsidiary companies of American Electric Power Company, Inc., a registered holding company have filed a post-effective amendment to their application-declaration under section 12(f) and 13(b) of the Act and rules 43 and 80 through 95 thereunder.

In accordance with the recommendation of the Commission's staff, resulting from its field audit of Indiana Michigan Power Company's ''(I&M'') River Transportation Division, I&M proposes to adjust the cost of capital rate authorized in Commission order dated March 4, 1986 (HCAR No. 24039) to conform the rate to the current market. I&M proposes that the overall rate of return on I&M's investment in the River Transportation Division would be subject to annual adjustment on the first day of April in each succeeding year based on changes in the rate of return on common equity most recently allowed by either (i) The Federal Energy Regulatory Commission (''FERC'') in the last wholesale rate proceeding involving I&M or (ii) the Indiana Utility Regulatory Commission in I&M's most recent retail rate proceeding. Furthermore, I&M proposes to change the way in which the working capital base is calculated in determining the cost-of-capital rate. Specifically, I&M

proposes to include one-eighth of the sum of the River Transportation Division's annual expenditures, year-end undercollection, prepayments, materials and supplies inventories balances, less year-end current liabilities and accrual balances.

I&M proposes to adjust the capitalization ratio on an annual basis, using I&M's financial information as reported at December 31 of the preceding year. Similarly, the cost of debt and preferred stock would be updated to reflect the overall cost of debt and preferred stock at December 31 of the preceding year.

The rate changes resulting from this methodology would be applied for billing purposes to the 12-month period commencing on the April 1 subsequent to the applicable December 31 calculation. By adjusting the provision for the cost of capital, the cost of capital rate will be increased from the 8.82% currently authorized to 9.69%, thus increasing the fees charged by I&M. However, in the event the cost of debt or preferred stock or the return on common equity decreases, the capital rate will likewise decrease.

Northeast Utilities et al. (70–8080)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, a registered holding company, and its subsidiary service company, Northeast Utilities Service Company (''NUSCO''), Seldom Street, Berlin, Connecticut 06037, have filed a post-effective amendment under sections 6(a) and 7 of the Act and rule 54 thereunder to their application-declaration previously filed under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and rules 42 and 50(a)(5) thereunder.

By order dated June 30, 1993 (HCAR No. 25842), NU was authorized to acquire, through NUSCO acting on behalf of NU from time-to-time prior to May 1, 2002, up to a total of 15,000 shares of NU's common stock, $5.00 par value (''Common'') on the open market. NU may transfer annually the Common to the non-employee trustees on NU's Board of Trustees as a portion of their compensation. Share compensation would be paid in addition to cash retainers and fees, and would be at a rate of 100 shares per year per outside trustee for 1993, subject to change in the future by Board of Trustees.

Because of changes to the trustee compensation program, NU now proposes to increase the number of shares of Common that it may issue and sell for non-employee trustee compensation, from time-to-time through April 30, 2005, from 15,000 shares to 50,000 shares. NUSCO will continue to acquire the Common on the open market on NU's behalf. However, because of revisions in rule 42(b) Nusco's acquisitions do not require the Commission's prior approval, under the circumstances of this matter (HCAR No. 26031, April 19, 1994).

Louisiana Power & Light Company (70–8487)

Louisiana Power & Light Company (''LP&L''), 639 Loyola Avenue, New Orleans, Louisiana 70113, an electric public-utility subsidiary company of Entergy Corporation, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 the Act and rule and 54 thereunder.

LP&L seeks authorization to issue and sell, directly or indirectly through a subsidiary, not more than $610 million principal amount of its first mortgage bonds (''Bonds''), debentures (''Debentures'') and securities of a subsidiary of LP&L (''Entity Interests'') to be issued in one or more new series from time to time no later than December 31, 1997.

LP&L proposes to organize either a special purpose limited partnership or a statutory business trust for the sole purpose of issuing the Entity Interests (''Issuing Entity''). LP&L will directly or indirectly make an equity contribution to the Issuing Entity at the time the Entity Interests are issued and thereby directly or indirectly acquire all of the general partnership interest or common securities in such Issuing Entity. LP&L's equity contribution to the Issuing Entity will at all times constitute at least 3% of the aggregate equity contributions by all securityholders to such Issuing Entity.

LP&L will issue, from time to time in one or more series, subordinated debentures (''Entity Subordinated Debentures'') to the Issuing Entity. The Issuing Entity will use the proceeds from the sale of its Entity Interests, plus the equity contributions made to it by either, (1) Its general partner (in the case of a limited partnership) or (2) LP&L (in the case of a business trust), to purchase the Entity Subordinated Debentures. The distribution rates, payment dates, redemption, maturity, and other similar provisions of each series of Entity Interests will be substantially identical to such terms and conditions of the Entity Subordinated Debentures relating thereto, and will be determined by the Issuing Entity at the time of issuance. Each series of Entity Interests will have a $25 per share stated liquidation preference.

LP&L may also enter into a guaranty pursuant to which it will unconditionally guarantee, (1) payment of distributions on the Entity Interests, if the Leasing Entity has funds available, (2) payments to the holders of Entity Interests of amounts due upon liquidation of the Issuing Entity or redemption of the Entity Interest, and (3) certain additional amounts that may be payable in respect of the Entity Interests.

Each series of Bonds and/or each series of Debentures will be sold at such price, will bear interest at such rate, either fixed or adjustable, and will mature on such date as will be determined at the time of sale. LP&L may determine to provide an insurance policy for the payment of the principal of and/or interest and/or premium on one or more series of Bonds and/or one or more series of Debentures. The Bonds and/or Debentures and/or Entity Interests may include provisions for redemption or retirement prior to maturity, including restrictions on optional redemption for a given number of years.

LP&L further proposes to issue and sell, from time to time not later than December 31, 1997, one or more new series of its preferred stock, cumulative, of either $25 par value or $100 par value (collectively ''Preferred''). The total aggregate par value of shares of Preferred may not exceed $123.5 million. The price exclusive of accumulated dividends, and the dividend rate for each series of Preferred will be determined at the time of sale. LP&L may determine that the terms of the Preferred should provide for an adjustable dividend rate thereon to be determined on a periodic basis, subject to specified maximum and minimum rates, rather than a fixed dividend rate. The terms of the Preferred may include provisions for redemption, including restrictions on optional redemption, and/or a sinking fund designed to redeem all outstanding shares of a series not later than thirty years after the date of original issuance.

LP&L proposes to use the net proceeds derived from the issuance and sale of Bonds, Debentures, Entity Interests and/or the Preferred for general corporate purposes, including, but not limited to, the possible acquisition of certain outstanding securities.

LP&L states that it presently contemplates selling the Bonds, the Debentures, the Entity Interests and the Preferred either by competitive bidding, negotiated public offering or private placement.

LP&L also proposes to enter into arrangements to finance on a tax-exempt

basis certain solid waste, sewage disposal and/or pollution control facilities (''Facilities'') at any of (i) Unit No. 3 of its Waterford Steam Electric Generating Station in the Parish of St. Charles, Louisiana, (ii) Units Nos. 6 and 7 of the LP&L's Sterlington Gas Generating Station in the Parish of Ouachita, Louisiana, or (iii) Units Nos. 1–5 of LP&L's Ninemile Point Gas Generating Station in the Parish of Jefferson, Louisiana (collectively, ''Parish''). LP&L proposes, from time to time through December 31, 1997, to enter into one or more installment sale agreements and supplements (''Agreement''), pursuant to which the Parish may issue one or more series of tax-exempt revenue bonds (''Revenue Bonds'') in an aggregate principal amount not to exceed $65 million. The net proceeds from the sale of Revenue Bonds will be deposited by the Parish with the trustee (''Trustee'') under one or more indentures (''Indenture'') and will be applied by the Trustee to reimburse the Company for, or to permanently finance on a tax-exempt basis, the costs of the acquisition, construction, installation or equipping of the Facilities.

LP&L further proposes, under the Agreement, to sell the Facilities to the Parish for cash and simultaneously repurchase the Facilities from the Parish for a purchase price, payable on an installment basis over a period or years, sufficient to pay the principal of, purchase price of, the premium, if any, and the interest on Revenue Bonds as the same become due and payable. Under the Agreement, LP&L will also be obligated to pay certain fees incurred in the transactions.

The price to be paid to the Parish for each series of Revenue Bonds and the interest rate applicable thereto will be determined at the time of sale. The Agreement and the Indenture will provide for either a fixed interest rate or an adjustable interest rate for each series of Revenue Bonds. Each series may be subject to optional and mandatory redemption and/or a mandatory cash sinking fund under which stated portions of such series would be retired at stated times.

In order to obtain a more favorable rating and thereby improve the marketability of the Revenue Bonds, LP&L may: (1) Arrange for a letter of credit from a bank (''Bank'') in favor of the Trustee (in connection therewith, LP&L may enter into a Reimbursement Agreement pursuant to which LP&L would agree to reimburse the Bank for amounts drawn under the letter of credit and to pay commitment and/or letter of credit fees); (2) provide an insurance policy for the payment of the principal of and/or interest and/or premium on one or more series of Revenue Bonds; and/or (3) obtain authentication of one or more new series of first mortgage bonds (''Collateral Bonds''), to be issued up to an aggregate principal amount of $75 million, under LP&L's mortgage on the basis of unfunded net property additions and/or previously retired first mortgage bonds and delivered and pledged to the Trustee and/or the Bank to evidence and secure LP&L's obligations under the Agreement and/or the Reimbursement Agreement.

LP&L also proposes to acquire, through tender offers or otherwise, certain of its outstanding securities, including its outstanding first mortgage bonds, its outstanding preferred stock and/or outstanding pollution control revenue bonds and industrial development revenue bonds issued for LP&L's benefit, at any time, prior to December 31, 1997.

National Fuel Gas Company (70–8657)

National Fuel Gas Company (''National''), 10 Lafayette Square, Buffalo, New York 14203, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act.

By order dated December 18, 1990 (HCAR No. 25216) (''Order''), National was authorized, among other things, to issue and sell from time-to-time through October 31, 1995, up to 1 million shares of its authorized but unissued common stock, no par value, to such bank or trust company as National may designate as agent for the participants in National's Customer Stock Purchase Plan (''Plan''). All material aspects of the Plan as authorized by the Order remain unchanged.

From December 18, 1990 to January 15, 1995, National issued and sold 609,156 shares of common stock under the Plan. No shares of common stock have been issued under the Plan since January 15, 1995. Rather, as provided in the Order, cash dividends on all shares of common stock received from, or optional cash payments made by customers participating in the Plan have been reinvested by using open market purchases of National's common stock. From January 16, 1995 to April 15, 1995, 47,522 shares of common stock have been purchased on the open market for distribution under the Plan.

National now proposes to issue and sell, in addition to those shares authorized to be distributed under the Plan by the Order, from time-to-time through October 31, 2000, up to an additional one million shares or its authorized but unissued common stock, $1.00 par value (''Additional Common Stock''), to Chemical Bank, or such other bank or trust company as National may designate, as agent for the participants in the Plan. National also proposes to invest the cash and dividends of shareholders participating in the Plan through open market purchases of National's common stock. National will make such a decision from time-to-time based upon its needs for common stock, and the price and availability of its common stock on the market.

National intends to use the proceeds from the sale of the Additional Common Stock to repay existing short-term and long-term debt, to pay interest and dividends, and for other corporate purposes. In addition, National will, from time-to-time, use the proceeds to make additional capital contributions to its wholly owned subsidiaries.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–19170 Filed 8–3–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21262; No. 812–9462]

Security Equity Life Insurance Company, et al.

July 28, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Security Equity Life Insurance Company (''Security Equity''), Security Equity Life Insurance Company Separate Account 13 (''Separate Account''), and Walnut Street Securities, Inc. (''Walnut Street'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and Rules 63–2(c)(4)(v), 6e–3(T)(b)(13)(ii), and 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: This order will permit: (1) The Separate Account to issue certain flexible premium variable life insurance policies (''Policies'') in which the sales charge deducted from premiums up to one target premium paid during any year exceeds the sales charge payable on any excess premium payments made in any prior year; and (2) the Separate Count and any future separate accounts established by Security Equity, to issue Policies, as well as other flexible premium, single

premium, or scheduled premium variable life insurance policies, in which a deduction is made from premium payments of an amount that is reasonably related to Security Equity's increased federal tax burden resulting from the receipt of such premium payments pursuant to the application of Section 848 of the Internal Revenue Code of 1986, as amended.

FILING DATE: The application was filed on February 2, 1995, and amended on July 17, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 22, 1995, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, Juanita M. Thomas, Esq., Security Equity Life Insurance Company, c/o General American Life Insurance Company, 700 Market Street, St. Louis, MO 63101.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Security Equity, a New York stock life insurance company, offers life insurance in thirty-eight states and the District of Columbia. Security Equity is a wholly-owned subsidiary of General American Life Insurance Company (''General American'').

2. The Separate Account is a separate account established by Security Equity to fund the Policies. The Separate Account is registered with the Commission under the 1940 Act as a unit investment trust, and interests in the Policies are registered with the Commission as securities under the Securities Act of 1933. The Separate Account presently is comprised of ten sub-accounts (''Sub-Accounts''), which invest exclusively in certain open-end management investment companies or series of such companies (''Funds'').

3. Walnut Street, a wholly-owned subsidiary of General American Holding Company (which, in turn, is a wholly-owned subsidiary of General American), is the distributor for the Policies. Walnut Street is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc.

4. The Policies are flexible premium variable life insurance contracts that provide for allocation of premium payments to the Sub-Accounts or to a fixed fund. The cash value and the death benefit under the Policies may fluctuate depending on the investment experience of the Sub-Accounts. There are three Death Benefit Options: (a) Face amount; (b) face amount plus account value; or (c) face amount plus a return of premiums. The minimum death benefit is equal to the account value multiplied by a specified percentage, which varies according to certain conditions. The Policies will not lapse if the net cash value is sufficient to cover monthly fees and charges deducted from the account value.[1] The Policies also offer Policy owners the opportunity to obtain a loan.

5. Certain fees and charges are deducted under the Policies. Each Sub-Account is assessed a daily mortality and expense risk charge, as well as monthly administrative charges, cost of insurance charges, charges for optional rider benefits, and charges for special insurance class rating, if any. If the Policy is issued on a medically underwritten basis,[2] a $100 underwriting charge will be deducted from the account value on the issue date, and the first day of the Policy month following a medically underwritten increase in the face amount[3] of the Policy.[4]

6. In addition, applicants propose to deduct from premium payments a premium load charge consists of a distribution charge, a premium tax charge, and a charge equal to 1.0% of each premium payment to cover the estimated cost of the federal income tax treatment under Section 848 of the Code, commonly referred to as the ''DAC Tax.'' Premium load is expressed as a percentage of premium, and depends upon the amount of the premium paid in relation to the target premium,[5] the Policy year in which the premium is paid, and the issue age of the insured.

a. Distribution Charge

Applicants assert that the distribution charge compensates Security Equity for its Policy sales expenses, and is comprised of a premium expense load and a commission charge. The percentage premium expense load deducted from each premium payment will be based on the sum of the initial premiums of all Policies in a case,[6] in accordance with the following table.

Sum of the initial premiums of all policies in a case	Premium expense load (percent)
Less than $250,000	2.00
$250,000–$999,999	1.50
$1 million and more	1.25

The commission charge will be deducted from premiums paid in each Policy year up to a target premium amount. There is no commission charge on any premium amount paid during a Policy year in excess of the target premium (''Excess Premium''). The commission charge on premiums paid in a Policy year up to the target premium amount is based upon the issue age of the insured and the Policy year as follows:

Issue ages	Policy year		
	1 (percent)	2–10 (percent)	11–15 (percent)
20–51	28.00	8.00	6.00
52–59	28.00	6.33	4.00
60–67	28.00	4.66	4.00
68–80	19.00	4.00	4.00
81–85	13.00	4.00	4.00

[1] Net cash value is defined as the account value less any outstanding Policy loan and accrued and unpaid loan interest.

[2] Medically underwritten contracts, for the purposes of this underwriting charge, are all Policies other than those issued on a guaranteed issue or simplified issue basis. Security Equity may reduce or waive the underwriting charge in connection with the purchase of Policies sold by licensed agents of Security Equity that are also registered representatives of selected broker-dealers or banks that have entered into written sales agreements with Walnut Street.

[3] The face amount of the Policy is defined as the amount of insurance under the Policy.

[4] The underwriting charge is modified if the Policy is issued with a joint and last survivor rider.

[5] The target premium is a percentage of the level annual premium payment necessary to provide future benefits under the Policy through maturity.

[6] A case is a grouping of one or more Policies connected by a non-arbitrary factor such as common employer of each insured under the Policy. Every Policy is part of a case.

For all issue ages the commission charge will be 2.0% for Policy years 16 and beyond.

b. State Premium Tax Charge

Security Equity also deducts from each premium a premium tax charge, equal to the taxes that are imposed on Security Equity by the state in which the Policy owner resides or by the state in which the insured resides, and that are based on such premiums received under the Policy.

c. Section 848 ''DAC Tax'' Charge

Applicants state that the 1.0% charge deducted from each Premium Payment is designed to reimburse Security Equity for its increased federal tax burden resulting from the application of Section 848 of the Code to the receipt of those premiums. Section 848, as amended, requires life insurance companies to capitalize and amortize over ten years certain general expenses for the current year rather than deduct these expenses in full from the current year's gross income, as allowed under prior law. Section 848 effectively accelerates the realization of income from specified contracts and, consequently, the payment of taxes on that income. Taking into account the time value of money, Section 848 increases that insurance company's tax burden because the amount of general deductions that must be capitalized and amortized is measured by the premiums received under the Policies.

a. Deductions subject to Section 848 equal a percentage of the current year's net premiums received (*i.e.*, gross premiums minus return premiums and reinsurance premiums) under life insurance or other contracts categorized under this Section. The Policies will be categorized as specific contracts under Section 848 requiring 7.7% of the net premiums received to be capitalized and amortized under the schedule set forth in Section 848(c)(1).

b. The increased tax burden on every $10,000 of net premiums received under the Policies is quantified by applicants as follows. For each $10,000 of net premiums received in a given year, Security Equity's general deductions are reduced by $731.50 *i.e.*, an amount equal to (a) $770 (7.7% of $10,000) minus (b) $38.50 (one-half year's portion of the ten year amortization which may be deducted in the current year). Using a 35% corporate tax rate, applicants assert that Security Equity's taxes would increase for the current year by $256.03. However, the current tax increase will be offset partially by deductions allowed during the next ten years, which result from amortizing the remainder of the $770 ($77 in each of the following nine years and $38.50 in year ten).

c. In calculating the present value of these increased future deductions, Security Equity determined that, in its business judgment, it is appropriate to use a discount rate of 10% for the following reasons. To the extent that capital must be used by Security Equity to pay the increased federal tax burden under Section 848, such surplus will be unavailable for investment. Thus, the cost of capital used to satisfy this increased tax burden under Section 848 is Security Equity's targeted rate of return (*i.e.*, return sought on surplus), which is in excess of 10%. Accordingly, applicants submit that the targeted rate of return on surplus is appropriate for use in this present value calculation.

d. Applicants also submit that, to the extent that the 10% discount rate is lower than Security Equity's actual targeted rate of return on surplus, the calculation of this increased tax burden will continue to be reasonable over time, even if the applicable corporate tax rate is reduced, or Security Equity's targeted rate of return on surplus is lowered.

e. Security Equity has computed its cost of capital as the after tax rate of return that it seeks to earn on its surplus. Security Equity's rate of return is based on a number of factors including market interest rates, the anticipated long-term growth rates for Security Equity and its parent company, General American, acceptable level of risks for both Security Equity and General American, inflation, and available information about the rates of return obtained by other mutual life insurance companies and their subsidiaries. Security Equity represents that these factors are appropriate to consider in determining its cost of capital. Security Equity seeks to maintain a ratio of surplus to assets that is established based on judgment of the risks represented by various components of assets and liabilities.

f. Using a federal corporate tax rate of 35%, and applying a discount rate of 10%, the present value of the tax effect of the increased deductions allowable in the following ten years, which partially offsets the increased tax burden, equals $160.40. The effect of Section 848 on the Policy, therefore, is and increased tax burden with a present value of $95.63 for each $10,000 of net premiums (*i.e.*, $256.03 less $160.40).

g. Applicants state that Security Equity does not incur incremental federal income tax when it passes on state premium taxes to Policy owners because state premium taxes are deductible in computing Security Equity's federal income taxes. Conversely, federal income taxes are not deductible in computing Security Equity's federal income taxes. To compensate Security Equity fully for the impact of Section 848, an additional charge must be imposed to make security Equity whole for the $95.63 additional tax burden attributable to Section 848, as well as the tax on the additional $95.63 itself. This additional charge can be determined by dividing $95.63 by the complement of 35% federal corporate income tax rate (*i.e.*, 65%), resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.47%.

h. Based on prior experience, Security Equity reasonably expects to take almost all future deductions. It is the judgment of Security Equity that a charge of 1.0% would reimburse it for the increased federal income tax liabilities under Section 848 of the Code, and will be reasonably related to such increased federal income tax burden. This representation takes into account the benefit to Security Equity of the amortization permitted by Section 848 and the use of a 10% discount rate (which is equivalent to Security Equity's targeted rate of return on surplus) in computing the future deductions resulting from such amortization. Applicants assert that it is appropriate to deduct this charge, and to exclude the deduction of this charge from sales load, because it is a legitimate expense of Security Equity and not for sales and distribution expenses.

Applicants' Legal Analysis

A. Exemptive Relief Under Section 27(a)(3) of the 1940 Act and Rule 6e-3(T)(b)(13)(ii) Thereunder

1. Section 27(a)(3) of the 1940 Act provides that the amount of sales charge deducted from any of the first twelve monthly payments on a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment. Section 27(a)(3) further provides that the sales charge deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment.

2. Rule 6e-3(T)(b)(13)(ii) provides a partial exception from the prohibitions of Section 27(a)(3). Exemptive relief from the prohibitions of Section 27(a)(3) provided by Rule 6e-3(T)(b)(13)(ii) is available if the proportionate amount of sales charge deducted from any premium payment does not exceed the proportionate amount deducted from any prior premium payment, unless an

increase is caused by reductions in the annual cost of insurance or in sales charge for amount transferred to a variable life insurance contract from another plan of insurance. Rule 6e-3(T)(b)(13)(ii) thus permits a decrease in sales load for any subsequent premium payment but not an increase.

3. Under the Policies' sales load structure, a Policy owner could pay a premium in any given Policy year from which a 2.0% front-end sales load deduction (the premium expense load) is made, because at the time such premium was paid, cumulative premiums paid during the Policy year exceeded the target premium amount. Premiums paid in a subsequent Policy year up to a target premium would be subject to a front-end sales load deduction of more than 2.0% (the applicable commission charge plus the premium expense load). Applicants thus request an exemption from the requirements of Section 27(a)(3) and Rule 6e3(T)(13)(ii) because the Policies' sales load structure would appear to violate the ''stair-step'' provisions in Section 27(a)(3) and because the exemption from Section 27(a)(3) provided by Rule 6e–3(T)(b)(13)(ii) does not seem to apply to the Policies' sales load structure.

4. Applicants state that, had they chosen to impose the higher front-end sales load equally on all premium payments, the Policies would qualify for exemptive relief under Rule 6e–3(T)(b)(13)(ii), subject to the maximum limits permissible under subparagraph (b)(13)(i) or the Rule. Applicants assert, however, that such a front-end charge, would be less favorable to Policy owners than provided under the Policies; under such a sales charge structure, sales load would be recovered by Security Equity earlier than is the case under the Policies' sales load structure. The sales charge structure under the Policies benefits Policy owners by spreading Security Equity's recovery of sales load over a longer period of time, and thereby permitting a greater portion of a Policy owner's excess premiums to be credited to account value.

5. In addition, applicants represent that the sales load structure has been designed based on Security Equity's operating expenses for the sale of the Policies and, thus, reflects in part the lower overall distribution costs that are associated with Excess Premiums paid over the life of a Policy. Applicants submit that it would not be in the best interest of a Policy owner to require the imposition of a higher sales load structure than applicants deem necessary to adequately defray their expenses.

6. Applicants argue that Section 27(a)(3) was designed to address the abuse of periodic payment plan certificates under which large amounts of front-end sales loads were deducted so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment since only a small portion of the investor's early payments were actually invested. Applicants submit that the deduction of a reduced front-end sales load on Excess Premiums paid in any Policy year does not have the detrimental effect that Section 27(a)(3) was designed to prevent because a greater proportion of the Policies' sales loads are deducted later than otherwise would be the case.

7. Applicants state that under the Policy, premiums up to the target premium amount have higher levels of actual sales expenses (*i.e.*, commissions) associated with them than premiums in excess of such target premium amounts. Because the excess premiums have a lower level of sales expenses, applicants argue that it is appropriate to analyze separately the sales load structures for the two types of payments. Applicant submit that, when analyzed separately, both types of sales load comply with Rule 6e–3(T)(b)(13)(ii).

B. Exemptive Request With Respect to Section 27(c)(2) of the 1940 Act and Rules 6e–2(c)(4)(v) and 6e–3(T)(c)(4)(v) Thereunder in Connection With Deduction of a Charge for Code Section 848's Deferred Acquisition Costs

1. Section 27(c)(2) prohibits a registered investment company or its depositor or underwriter from making any deduction from premium payments made under periodic payment plan certificates other than a deduction for sales load. Section 2(a)(35)[7] defines sales load as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment, less amounts deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees that are not properly chargeable to sales load.

2. The Separate Accounts are, and the Future Accounts will be, regulated under the 1940 Act as issuers of periodic payment plan certificates. Accordingly, the Separate Accounts, the Other Accounts, Security Equity (as depositor), and Walnut Street (as principal distributor) are deemed to be subject to Section 27 of the 1940 Act. Applicants thus request an order under Section 6(c) of the 1940 Act granting exemptions from Sections 27(c)(2) of the 1940 Act to allow the deduction of a charge from premium payments to compensate Security Equity for their increased federal tax burden resulting from the receipt of such premium payments under the Policies.

3. Certain provisions of Rules 6e–2 and 6e–3(T) provide exemptive relief from Section 27(c)(2) if the separate account issues variable life insurance contracts, or flexible premium variable life insurance contracts, respectively. Rule 6e–2(b)(13)(iii) provides an exemption from Section 27(c)(2) of the 1940 Act to permit an insurer to deduct certain charges, other than sales load, including administrative expenses. Similarly, Rule 6e–3(T)(b)(13)(iii) provides exemptive relief from Section 27(c)(2) to permit an insurer to make certain deductions, other than sales load, including the insurer's tax liabilities from receipt of premium payments imposed by states or by governmental entity.

Rule 6e–2(b)(1), together with Rule 6e–2(c)(4), provides an exemption from the Section 2(a)(35) definition of sales load by the substitution of a new definition to be used for the purposes of Rule 6e–2. Rule 6e–2(c)(4) defines sales load charged on any payment as the excess of the payment over certain specified charges and adjustments, including a deduction approximately equal to state premium taxes. Rule 6e–3(T)(b)(1), together with Rule 6e–3(T)(c)(4), also provides an exemption from the Section 2(a)(35) definition to be used for the purposes of Rule 6e–3(T). Rule 6e–3(T)(c)(4) defines sales load during a period as the excess of any payments made during that period over certain specified charges and adjustments, including a deduction for and approximately equal to state premium taxes.

4. Applicants request exemptions from Rules 6e–2(c)(4)(v) and 6e–3(T)(c)(4)(v) under the 1940 Act to permit the proposed deduction with respect to Section 848 of the Code to be treated as other than sales load, as defined under Section 2(a)(35) of the 1940 Act, for purposes of Section 27 and the exemptions from various provisions

[7] Sales loads, as defined under Section 2(a)(35), are limited by Sections 27(a)(1) and 27(h)(1) to a maximum of 9% of total payments on periodic payment plan certificates. The proceeds of all payments (except amounts deducted for sales load) must be held by a trustee or custodian having the qualifications established under Section 26(a)(1) for the trustees of unit investment trusts and held under an indenture or agreement that conforms with the provisions of Section 26(a)(2) and Section 26(a)(3) of the 1940 Act.

of that Section found implicitly in Rule 6e–2 and explicitly in Rule 6e–3(T).

5. Applicants assert that the proposed deduction with respect to Section 848 of the Code arguably is covered by Rules 6e–2(b)(13)(iii) and 6e–3(T)(b)(13)(iii) and should be treated as other than sales load. Applicants note, however, that under a literal reading of Rules 6e–2(c)(4) and 6e–3(T)(c)(4), a deduction for an insurer's increased federal tax burden does not fall squarely into those itemized charges or deductions, arguably causing the deduction to be treated as part of sales load.

6. Applicants state that they have found no public policy reason for including a deduction for an insurer's increased federal tax burden in sales load. Applicants assert that the public policy that underlies paragraph (b)(13)(i) of Rules 6e–2 and 6e–3(T), like that which underlies paragraphs (a)(1) and (h)(1) of Section 27, is to prevent excessive sales loads from being charged for the sale of periodic payment plan certificates. Applicants submit that this legislative purpose is not furthered by treating a federal income tax charge based on premium payments as a sales load because the deduction is not related to the payment of sales commissions or other distribution expenses. Applicants assert that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of sales load in Rules 6e–2(c)(4) and 6e–3(T)(c)(4).

7. Applicants submit that the source for the definition of sales load found in Rules 6e–2(c)(4) and 6e–3(T)(c)(4) supports this analysis. Applicants believe that, in adopting paragraph (c)(4) of the Rules, the Commission intended to tailor the general terms of Section 2(a)(35) to variable life insurance contracts to ease verification by the Commission of compliance with the sales load limits of subparagraph (b)(13)(i) of the Rules.

8. Applicants submit that the exclusion from the definition of sales load under Section 2(a)(35) of deductions from premiums for issue taxes suggests that it is consistent with the policies of the 1940 Act to exclude from the definition of sales load in Rule 6e–2 and 6e–3(T) deductions made to pay an insurer's costs attributable to its federal tax obligations. Additionally, the exclusion of administrative expenses or fees that are ''not properly chargeable to sales or promotional activities'' also suggests that the only deductions intended to fall within the definition of sales load are those that are properly chargeable to sales or promotional activities. Applicants represent that the proposed deductions will be used to compensate Security Equity for its increased federal tax burden attributable to the receipt of premiums and not for sales or promotional activities. Applicants, therefore, believe the language in Section 2(a)(35) further indicates that not treating such deductions as sales load is consistent with the policies of the 1940 Act.

9. Finally, applicants submit that it is probably an historical accident that the exclusion of premium tax in subparagraph (c)(4)(v) of Rules 6e 2 and 6e–3(T) from the definition of sales load is limited to state premium taxes. Applicants note that, when Rules 6e–2 and 6e–3(T) were adopted, and later amended, the additional Section 848 tax burden attributable to the receipt of premiums did not yet exist.

10. Applicants further submit that the terms of the relief requested with respect to Future Policies to be issued through Other Accounts are also consistent with the standards of Section 6(c). Without the requested relief, applicants would have to request and obtain such exemptive relief for each Future Contract to be issued through an Other Account. Such additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

11. The requested relief is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for applicants to file redundant exemptive applications regarding the federal tax charge, thereby reducing their administrative expenses and maximizing the efficient use of their resources. Applicants represent that the delay and expense involved in having to repeatedly seek exemptive relief would impair their ability to effectively take advantage of business opportunities as they arise.

12. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If applicants were required to repeatedly seek exemptive relief with respect to the same issues regarding the federal tax charge addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of applicants' increased overhead expenses.

Conditions for Relief

Applicants agree to the following conditions:

a. Security Equity will monitor the reasonableness of the charge to be deducted pursuant to the requested exemptive relief.

b. The registration statement for each Policy and Future Policy under which the above-referenced federal tax charge is deducted will: (1) disclose the charge; (2) explain the purpose of the charge; and (3) state that the charge is reasonable in relation to Security Equity's increased federal tax burden under Section 848 of the Code resulting from the receipt of premium payments.

c. The registration statement for each Policy and Future Policy under which the above-referenced federal tax charge is deducted will contain as an exhibit an actuarial opinion as to: (1) The reasonableness of the charge in relation to Security Equity's increased federal tax burden under Section 848 of the Code resulting from the receipt of premiums; (2) the reasonableness of the rate of return on surplus that is used in calculating such charge; and (3) the appropriateness of the factors taken into account by Security Equity in determining such rate of return.

Conclusion

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act.

2. For the reasons and upon the facts set forth above, applicants submit that the requested exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and Rules 6e–2(c)(4)(v), 6e–3(T)(b)(13)(ii), and 6e–3(T)(c)(4)(v) thereunder, are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act. Therefore, the standards set forth in Section 6(c) of the 1940 Act are satisfied.

For the Commission, by the Division of investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–19171 Filed 8–3–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, as amended (P.L. 104–13 effective October 1, 1995), The Paperwork Reduction Act. Since the last list was published in the **Federal Register** on July 28, 1995, the following information collections have been proposed or will require extension of the current OMB approvals:

A copy of each (the) collection instrument is included at the end of this notice. Call Reports Clearance Officer on (410) 965–4142 for copies of clearance package.

SSA Reports Clearance Officer: Charlotte S. Whitenight.

1. Notice Regarding Substitution of Party Upon Death of Claimant—Reconsideration of Disability Cessation—OMB Control No. 0960–0351. The information on form SSA–770 is used by the Social Security Administration to obtain information from substitute parties regarding their intention to pursue the appeals process on behalf of an individual who died. The respondents are such parties.

Number of Respondents: 1,200.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 100 hours.

2. Disability Determination and Transmittal—OMB Control No. 0960–0437. The information on form SSA–831 will be used by the State disability determination services to document whether an individual who applies for disability benefits is eligible for those benefits based on his or her alleged disability. It is also used by SSA for program management and evaluation. The respondents are state agency employees who make disability determinations for SSA.

Number of Respondents: 3,525,600.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 881,400.

3. Cessation or Continuance of Disability or Blindness Determination and Transmittal—Title XVI—OMB Control No. 0960–0443. The information on form SSA–832 is used by State disability determination services to document determinations as to whether an individual's disability benefits should be terminated or continued on the basis of his/her impairment. The respondents are State disability determination services adjudicating Title XVI disability claims.

Number of Respondents: 53,700.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 26,850 hours.

4. Cessation or Continuance of Disability or Blindness Determination and Transmittal—Title II—OMB Control No. 0960–0442. The information on form SSA–833 is used by State disability determination services to prepare determinations of whether individuals receiving Title II disability or blindness benefits continue to be unable to engage in substantial gainful work by reason of their impairments and are still eligible for benefit payments. It is also used to collect data for program evaluation and program management.

Number of Respondents: 268,700.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 134,350 hours.

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Date: July 31, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration,

[FR Doc. 95–19205 Filed 8–3–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 20–62D]

Draft Advisory Circular on Eligibility, Quality, and Identification of Aeronautical Replacement Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of draft Advisory Circular (AC) 20–62D and request for comments.

SUMMARY: This notice announces the availability of and request comments on a draft AC pertaining to guidance for use in the determination of quality, eligibility, and traceability of aeronautical replacement parts intended for installation on type-certificated products. This notice is necessary to give all interested persons the opportunity to present their views on the draft AC.

DATES: Comments must be received on or before October 3, 1995.

ADDRESSES: Send all comments on the draft AC to: Federal Aviation Administration, General Aviation and Commercial Branch, AFS–340, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be inspected at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Al Michaels, AFS–340, at the address above, or telephone (202) 267–7501.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. The draft AC may also be downloaded from the FedWorld BBS by dialing (703) 321–8020, ANSI 8, 1, N, 9600 baud, or through the Internet at the following Uniform Resource Location (URL): ftp://fwux.fedworld.gov/pub/faa/faa.htm. The file name is ''AC20–62D.TXT.'' Interested persons are invited to comment on the draft AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 20–62D, Eligibility, Quality, and Identification of Aeronautical Replacement Parts, and submit comments, in duplicate, to the address specified above. All comments will be considered by the General Aviation and Commercial Branch, AFS–340, before issuing the final AC.

Background

The FAA continues to receive reports of replacement parts being offered for sales as aircraft quality and where the origin of the parts are unknown or questionable. Such parts may be advertised or presented as ''unused,'' ''like new,'' or ''remanufactured.'' Purchasers of these parts may not be aware of the potential hazards involved with replacement parts for which acceptability for installation on a type-certificated product has not been established. In determining whether installation of a part conforms with all applicable regulations, the installer can establish that the part was manufactured under a production approval pursuant to part 21 of the Federal Aviation Regulations (FAR), that an originally acceptable part has been maintained in accordance with part 43 of the FAR, or that the part is otherwise acceptable for installation, e.g., has been found to conform to data approved by the FAA. This AC would address means to help the installer make the required determinations.

Issued in Washington, D.C., on July 31, 1995.

William J. White,

Deputy Director, Flight Standards Service.

[FR Doc. 95–19188 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at the Huntsville International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before September 5, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther H. Roberts, Jr., Director of Finance/Administration, Huntsville-Madison County Airport Authority at the following address: 1000 Glenn Hearn Blvd, Box 20008, Huntsville, AL 35824.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Huntsville-Madison County Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Principal Engineer, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 27, 1995, the FAA determined that the application to use the revenue from a PFC submitted by Huntsville-Madison County Airport Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 23, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Actual charge effective date: June 1, 1992.

Estimated charge expiration date: October 31, 2008.

Total estimated net PFC revenue: $19,125,142.

Estimated PFC revenues to be used on projects in this application: $1,563,128.

Brief description of proposed project(s): Land acquisition (23 acres), Air cargo apron expansion, and runway 18R–36L rehabilitation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators, certified air carriers, and certified route air carriers having fewer than 500 annual operations.

Any person may inspect the application in person at the FAA office listed above the **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Huntsville-Madison County Airport Authority.

Issued in Jackson, Mississippi on July 27, 1995.

Elton E. Jay,

Acting Manager, Airports District Office, Southern Region, Jackson, Mississippi.

[FR Doc. 95–19189 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at Philadelphia International Airport, Philadelphia, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Philadelphia International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before September 5, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. L.W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Drive, Suite 1, Camp Hill, Pennsylvania 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mary Rose Loney, Director of Aviation for the City of Philadelphia at the following address: Philadelphia International Airport, Terminal E, Philadelphia, Pennsylvania 19153.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Philadelphia under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. L.W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Drive, Suite 1, Camp Hill, Pennsylvania 17011, (717) 730–2835. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Philadelphia International Airport under the provisions of the Aviation Safety and

Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 11, 1995, the FAA determined that the application to use the revenue from a PFC submitted by the City of Philadelphia was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 24, 1995.

The following is a brief overview of the application. Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1992.

Proposed charge expiration date: August 31, 1997.

Total estimated PFC revenue: $116,700,000.

Brief description of proposed project: This project provides for a boat launching and storage facility on the Delaware River immediately south of the airport. This will provide water rescue capability which will greatly enhance safety at the airport.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ACTO) Filing FAA From 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Philadelphia International Airport.

Issued in Jamaica, New York on July 28, 1995.

Anthony P. Spera,

Manager, Airports Division, Eastern Region.

[FR Doc. 95–19190 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–58; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1980 Sprite Musketeer Trailers Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1980 Sprite Musketeer trailers are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1980 Sprite Musketeer trailer that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because it has safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is September 5, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm.]

FOR FURTHER INFORMATION CONTACT:

George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. § 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. § 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Northern California Diagnostic Laboratories, Inc. of Napa, California (Registered Importer R–92–011) has petitioned NHTSA to decide whether 1980 Sprite Musketeer trailers are eligible for importation into the United States. The petitioner contends that this vehicle, which it describes as an eighteen-foot, single axle, towable trailer manufactured in England, is eligible for importation under 49 U.S.C. § 30141 (a)(1)(B) because it has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that the 1980 Sprite Musketeer trailer complies with the following standards: Standard Nos. 106 *Brake Hoses,* 115 *Vehicle Identification Number,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars,* and 121 *Air Brake Systems.*

The petitioner also contends that the vehicle is capable of being readily altered to meet Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment,* through the installation of the equipment required by this standard.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. § 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 1, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–19279 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–26; Notice 2]

Uniform Data Collection and Reporting Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: This notice reopens the comment period on Uniform Data Collection and Reporting Program published June 20, 1995. The comment period closed on July 20, 1995.

SUMMARY: This notice reopens the comment period on a notice inviting comments, suggestions and recommendations from individuals and organizations with an interest in data support for highway and traffic safety problem identification and countermeasure activities. NHTSA received two requests asking that the comment period be extended because of related activity occurring in a committee conducted by the National Safety Council. NHTSA believes that a reopening of the comment period would satisfy the identified concerns of the two petitioners and allow time for those attending the Joint Conference on Traffic Records and Highway Safety Data to submit additional comments after the August conference. Comments should address the specific questions listed in the notice and any data-related concerns applicable to the concept of a national uniform data system or to the ISTEA requirement. Accordingly, the comment period for Docket 95–26; Notice 1 is reopened so that it closes September 20, 1995.

DATES: The comment period for Docket 95–26; Notice 1 is reopened so that it closes September 20, 1995.

ADDRESSES: Written comments should refer to Docket No. 95–26; Notice 2 and should be submitted to: Docket Section, NHTSA, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are 9:30 A.M. to 4:00 P.M.)

FOR FURTHER INFORMATION CONTACT: Janet Johnson, Office of Strategic Planning and Evaluation, NPP–11, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone 202/366–2571.

SUPPLEMENTARY INFORMATION: NHTSA published a notice and request for comments, suggestions and recommendations from individuals and organizations with an interest in data support for highway and traffic safety problem identification and countermeasure activities. In particular, it solicited participation from the traffic safety community regarding a uniform data collection methodology and process pursuant to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. ISTEA required that the Secretary establish a highway safety program for the collection and reporting of data on traffic related deaths and injuries by the States. The comment period closed on July 20, 1995.

NHTSA received two requests that the comment period be extended for sixty (60) days. The first request, filed by Advocates for Highway and Auto Safety, asked that the comment period be extended due to the variety of topics included in the request for comments and because the National Safety Council is due to publish a committee report on traffic records and the report has not yet been completed.

The second request, filed by the National Safety Council (NSC), asked that the comment period be extended to allow for their solicitation of views from the traffic records professionals who will be attending their August meeting on analysis of highway safety data. This conference is being cosponsored by NHTSA. NSC also mentions the report that is being prepared by the committee examining traffic needs and states that it would like the opportunity to submit it to the docket as a comment to the notice.

NHTSA has carefully considered these requests and believes that reopening the comment period will be beneficial to our acquiring the maximum input from the highway safety community for use in our report to Congress.

Issued on: July 31, 1995.

Donald C. Bischoff,

Associate Administrator for Plans and Policy.

[FR Doc. 95–19280 Filed 8–3–95; 8:45 am]

BILLING CODE 4910–59–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 150
Friday, August 4, 1995

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).

UNITED STATES ENRICHMENT CORPORATION

Board of Directors

TIME AND DATE: 8:00 a.m., Tuesday, August 8, 1995.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial and financial issues of the Corporation.
- Procedural matters.

CONTACT PERSON FOR MORE INFORMATION: Barbara Arnold, 301–564–3354.

Dated: August 1, 1995.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 95–19419 Filed 8–2–95; 3:06 pm]

BILLING CODE 8720–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, August 9, 1995.

PLACEL: William McChesney Martin, Jr., Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

Note: Until further notice, open meetings will be held in the Martin Building, not the Eccles Building.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposal to establish a firm closing time for the Fedwire securities transfer service (proposed earlier for public comment; Docket No. R–0866).
2. Proposed modifications to the Fedwire third-party access policy.
3. Publication for comment of a proposal to control third-party and respondent institution access to the Federal Reserve Banks' automated clearing house (ACH) service.
4. Any items carried forward from a previously announced meeting.

Discussion Agenda

Please Note That No Discussion Items Are Scheduled For This Meeting.

Note: If an item is moved from the Summary Agenda to the Discussion Agenda, discussion of the item will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can 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: August 2, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–19373 Filed 8–2–95; 11:11 am]

BILLING CODE 6210–01–P–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:15 a.m., Wednesday, August 9, 1995, following a recess at the conclusion of the open meeting.

PLACE: William McChesney Martin, Jr. Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 2, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–19374 Filed 8–2–95; 11:11 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m., August 21, 1995.

PLACE: National Finance Center, First Floor, Conference Room 6, USDA/NFC Building No. 350, NASA Space Facility, 13800 Old Gentilly Road, New Orleans, Louisiana.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the July 17, 1995, Board meeting
2. Thrift Savings Plan activity report by the Executive Director
3. Review of investment policy
4. Review of Arthur Andersen's semiannual review
5. Briefings by National Finance Center and Board staff on:
   a. Update on Recordkeeper organization and activity
   b. Recordkeeper costs
   c. Thrift Savings Plan system issues
   d. Implementation of audit recommendations
   e. Participant services

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: August 1, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 95–19375 Filed 8–2–95; 3:06 pm]

BILLING CODE 6760–01–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 10:00 a.m. on Tuesday, August 8, 1995, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and

by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Mid-Year Budget Review Summary Report.

Memorandum re: Quarterly Budget Variance Summary Report.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 327 of the Corporation's rules and regulations, entitled ''Assessments,'' which (1) establish a new assessment rate schedule for institutions whose deposits are subject to assessment by the Bank Insurance Fund, (2) amend the assessment risk classification matrix to widen the existing assessment rate spread, and (3) establish a procedure for adjusting the rate schedule semiannually as necessary to meet statutory requirements.

Memorandum and resolution re: Final amendments to Part 327 of the Corporation's rules and regulations, entitled ''Assessments,'' which would adopt an assessment rate schedule applicable to members of the Savings Association Insurance Fund.

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. Jerry L. Langley, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: August 1, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–19450 Filed 8–2–95; 3:57 pm]

BILLING CODE 6714–O–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–95–023]

TIME AND DATE: August 14, 1995 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. Nos. 731–TA–736–737 (Preliminary) (Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan)—briefing and vote.
5. Outstanding action jackets:
   1. ID–95–024, Report on Inv. No. 332–357 (Lamb Meat: Competitive Conditions Affecting the U.S. and Foreign Lamb Industries).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: August 2, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–19438 Filed 8–02–95; 3:18 pm]

BILLING CODE 7020–02–P

Corrections

Federal Register

Vol. 60, No. 150

Friday, August 4, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 950426116-5116-01; I.D. 071095B]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Closure

Correction

Final rule document 95–17686 was inadvertently published in the Proposed Rules section of the issue of Wednesday, July 19, 1995, beginning on page 37045. It should have appeared in the Rules and Regulations section.

BILLING CODE 1505–01–D

LEGAL SERVICES CORPORATION

Grant Award for the Provision of Civil Legal Services to Hawaii Migrant Farmworkers

Correction

In notice document 95–18032 beginning on page 37690 in the issue of Friday, July 21, 1995, make the following correction:

On page 37691, in the first column, under **DATES:**, in the third line, ''August 12, 1995.'' should read ''August 21, 1995.''

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research amd Special Programs Administration

49 CFR Part 172

[Docket No. HM-215A; Amdt Nos. 171-131, 172-139, 173-241, 175-52, 176-36, 177-84, 178-106]

RIN 2137-aC42

Implementation of the United Nations Recommendations, International Maritime Danagerous Goods Code, and International Civil Aviation Organization's Technical Instructions

Correction

In rule document 94–31175 beginning on page 67390 in the issue of Thursday, December 29, 1994, make the following correction:

§ 172.101 [Corrected]

On page 67419, in § 172.101, in the table, in the first column, in the last entry, ''+'' should appear before ''Bromine trifluoride''.

BILLING CODE 1505–01–D

federal register

Friday
August 4, 1995

Part II

Environmental Protection Agency

Fiscal Year 1996 Environmental Education Grants Program; Solicitation Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5268–2]

Fiscal Year 1996 Environmental Education Grants Program; Solicitation Notice

Section I. Important Pre-Application Information

A. What is the purpose of this solicitation notice?

This notice solicits grant pre-applications from education institutions, public agencies, and non-profit organizations to support environmental education projects as defined in this notice.

B. What is the Environmental Education Grants Program? How much money is available for this program?

The Environmental Education Grants Program provides financial support for projects which design, demonstrate, or disseminate environmental education practices, methods, or techniques. This program is authorized under Section 6 of the National Environmental Education Act of 1990 (the Act) (P.L. 101–619). Congress has appropriated approximately $11 million for this grants program over the past four years (between $2.5 and $2.9 million per year from FY 1992 through FY 1995). EPA headquarters awards approximately $1 million in grant funds per year and each of EPA's ten regional offices award approximately $150,000 to $180,000 per year. EPA expects funding in FY 1996 to be about the same as in the past and will award grants subject to the amount of funds appropriated by Congress.

C. What is environmental education?

The goal of environmental education is to increase public awareness and knowledge about environmental issues, and to provide the public with the skills needed to make informed decisions and to take responsible actions. Environmental education enhances critical-thinking, problem-solving, and effective decision-making skills. It also teaches individuals to weigh various sides of an environmental issue to make informed and responsible decisions.

D. When is my pre-application due to EPA and when will EPA announce the grant awards?

Pre-applications (a signed original plus two copies) must be mailed to EPA postmarked no later than Friday, October 13, 1995. Pre-applications which are postmarked after October 13, 1995 will not be considered for funding. EPA expects to announce the 1996 grant awards in the Spring of 1996.

E. Do I mail my pre-application to EPA headquarters or an EPA regional office? Is there a difference between the type of project that is funded by EPA headquarters as opposed to EPA's regional offices?

Pre-applications requesting between $25,001 and $250,000 in federal environmental education grant funds must be mailed to EPA headquarters in Washington, DC; pre-applications requesting $25,000 or less must be mailed to the EPA regional office where the project takes place (rather than to the regional office where the applicant is located, if these locations are different). A list of addresses is included at the end of this notice. The EPA headquarters and regional grants will be evaluated using the same criteria as defined in this solicitation. The only difference between grants that are awarded by EPA headquarters and by EPA's regional offices is the amount of money awarded.

F. Where do I get the information and forms needed to prepare my pre-application?

Please read this solicitation notice carefully; it contains all the information and forms necessary to prepare a pre-application. If your project is selected as a finalist after the evaluation process is concluded, EPA will provide you with additional forms needed to process your pre-application.

G. How much money can I request for my grant project? How does the dollar amount requested affect my chance of being funded?

Applicants may request up to $250,000 in environmental education grant funds for any one grant. *However, pre-applications which request relatively small amounts of funding, especially for $5,000 or less, have a much better chance of being funded because EPA awards a much greater number of grants at lower funding levels. In fact, your chance of being funded increases dramatically as the amount of money you request decreases.* A significant number of smaller awards are made for the following reasons. First, EPA is required, under Section 6(i) of the Act, to award 25% of the total amount of our grant funds for projects which request $5,000 or less. For each EPA region, this means that 50% of the regional grant funds each year are designated for grants of $5,000 or less. Second, EPA chooses to award only a few large grants (e.g., those submitted to headquarters which request over $100,000) to enable EPA to support more projects.

EPA has awarded grants under the Environmental Education Grants Program from FY 1992 through FY 1995. Individual awards have ranged from less than $5,000 up to $250,000. Since FY 1992, EPA has funded only about 10 proposals annually for projects requesting between $25,001 and $250,000, and only 1 proposal each year has been funded at or near the $250,000 level. By contrast, EPA has funded about 30 proposals annually for projects requesting between $5,001 and $25,000, and about 200 proposals annually for projects requesting $5,000 or less. EPA has received between 1,200 and 3,000 pre-applications each year. *To increase your chance of obtaining funding in FY 1996, EPA strongly encourages applicants to request regional grants of $5,000 or less. If larger sums are needed, EPA strongly encourages applicants to request a headquarters grant closer to $25,000 rather than the maximum of $250,000.*

Section II. Eligible Applicants

H. Who is eligible to submit pre-applications?

Any local or tribal government education agency, state government education or environmental agency, college or university, not-for-profit organization, or noncommercial educational broadcasting entity may submit a pre-application. These terms are defined in Section 3 of the Act and 40 CFR Part 47.105.

I. May an organization submit more than one pre-application in FY 1996?

Yes, an organization may submit more than one pre-application, *but only if the pre-applications are for different projects.* No organization will be awarded more than one grant for the same project during the same fiscal year.

J. May I submit a pre-application for Fiscal Year 1996 even if I have been awarded funding under this program in the past four years?

Yes, applicants who were awarded funding previously may submit a pre-application for FY 1996. The FY 1996 pre-application may or may not have any relationship to the project funded in a previous year. Each pre-application for FY 1996 will be evaluated based upon the specific criteria set forth in this solicitation and in relation to the other pre-applications.

K. May a teacher, educator, or faculty member apply?

A teacher's school district, an educator's nonprofit organization, or a faculty member's college or university may apply, but an individual teacher, educator, or faculty member cannot. Only agencies, organizations, and institutions—not individuals—are eligible to apply for grants.

Section III. Eligible Activities and Funding Priorities

L. What general activities are eligible for funding under this program?

As specified under the Act, the *environmental education* activities that are eligible for funding under this program *must include, but are not limited to,* at least one of the following:

1. designing, demonstrating, or disseminating environmental curricula;
2. assessing environmental and ecological conditions or specific environmental issues or problems;
3. training or educating teachers, faculty, or related personnel; or
4. fostering international cooperation in addressing environmental issues and problems in the United States, Canada, and/or Mexico.

Under Section III.L.1. above, *EPA strongly encourages applicants to demonstrate or disseminate existing environmental curricula rather than designing new curricula* because experts indicate that a significant amount of quality curricula have already been developed and are under-utilized. EPA will consider funding new curricula only where the applicant demonstrates that there is a need (e.g., that the new curriculum has not been designed for a certain audience, existing curricula cannot be adapted well to a particular local environmental concern, or existing curricula are not otherwise accessible). The applicant must specify what steps they have taken to determine this need (e.g., you may cite a conference where this need was discussed, the results of inquiries made within your community or with various educational institutions, or a research or other published document).

M. What activities are *NOT* eligible for funding under this program?

Funds cannot be used for:

1. construction projects;
2. technical training of environmental management professionals;
3. non-educational research and development; and/or
4. environmental information projects.

Under Section III.M.4. above, EPA will not fund construction activities such as the acquisition of real property (e.g., buildings) or the construction or modification of any building. EPA may, however, fund activities such as creating a nature trail or building a bird watching station as long as these items are an integral part of the environmental education project, and the cost is a relatively small percentage of the total amount of federal funds requested.

Under Section III.M.4. above, EPA will fund only *environmental education* projects, *NOT* projects that are solely designed to develop or disseminate *environmental information.* As discussed under Section I.C. above, *environmental education* teaches critical-thinking, problem-solving skills, and decision-making skills. By contrast, *environmental information* provides facts or opinions about environmental issues or problems, but does not enhance critical-thinking, problem-solving, or effective decision-making skills. Although information is an essential element of any educational effort, environmental information is not, by itself, environmental education. In other words, environmental education teaches people how to think, not what to think.

N. What specific type of projects will EPA fund?

EPA will fund only those proposals which meet the criteria specified under #1 and #2 below. Proposals which do not meet these criteria will not be funded.

1. As specified under the Act, all proposals *MUST discuss how the proposed project:*

a. is new or significantly improved;

b. has the potential for wide application; *AND*

c. addresses a high priority environmental issue.

Applicants must define ''new or significantly improved,'' ''wide application,'' and ''high priority environmental issue'' as they relate to each individual project. For example, a project may be *new or significantly improved* if it reaches a specific community for the first time, develops a new or improved teaching strategy, or uses a new or improved method of applying existing materials. Similarly, a project may have *wide application* if it targets a large and diverse audience in terms of numbers or demographics or if it can serve as a model program elsewhere. Finally, a project may address a *high priority environmental issue* if the applicant demonstrates its importance to the community, state, or region being targeted by the project (e.g., one community may have significant air pollution problems which makes teaching about human health affects from and solutions to air pollution important, while rapid development in another community may threaten a nearby wildlife habitat, thus, making habitat or ecosystem protection a high priority issue).

2. *All proposals MUST also focus on ONE of the following*:

a. improving environmental education teaching skills for teachers, faculty, and other nonformal educators (e.g., through workshops);

b. educating teachers, students, or the public about human health problems from environmental pollution;

c. building state, local, or tribal capacity to develop and deliver environmental education programs;

d. promoting environmental careers among students;

e. educating members of a community through a community-based organization; *OR*

f. educating the general public to be more environmentally conscious in making informed decisions and taking responsible actions through print, film, broadcast, or other media.

All proposals MUST clearly identify which of the above the proposal will focus on. You will NOT increase your chances of being funded by focusing on more than one of the above. The terms used under Section III.N.2.a–f. are defined below.

The term *workshop* refers to training activities that prepare educators to utilize environmental education materials. Workshops may be directed toward young people and/or adults in formal and/or informal settings. (A formal setting is a school, college, university, or other similar institution devoted to learning; an informal setting may include a museum, nature center, park, or community center which may not be devoted to learning but often includes such activities). Workshops should emphasize a process, problem-solving, and investigative approach to learning, and use a ''hands-on'' approach to learning that leads to the development of problem-solving and critical-thinking skills.

The term *building state, local, or tribal capacity* refers to the development and implementation of plans designed to improve the coordinated delivery of environmental education at the state, local, or tribal level. This should involve a coordinated effort by the primary environmental education providers from the respective state, local, or tribal government in the planning and implementation of the project (e.g., State Departments of Education or Natural Resources, local school districts, and state, local, and tribal environmental education coordinating councils). Examples of how to build state, local, or tribal capacity include the development of plans for:

- identifying and assessing needs as well as setting priorities;
- creating grant programs or identifying funding sources for environmental education providers; and/or
- identifying environmental education teacher training needs.

The term *community-based organization* refers to organizations in which local problems are addressed by individuals who reside in the community being served.

Section IV. The Pre-Application

O. What is a pre-application?

The pre-application contains three parts: (1) The ''Application for Federal Assistance'' (Standard Form 424 (or SF 424, attached)), (2) the ''Budget Information: Non-Construction Programs'' (Standard Form 424A (or SF 424A, attached)), and (3) a work plan (described below). To ensure your pre-application is completed properly, carefully follow the instructions on the SF 424, SF 424A, and those provided below. *The SF 424, SF 424A, and completed work plan contain all the information EPA will use to evaluate the merits of your pre-application.* Only finalists will be asked to submit additional forms needed to process your pre-application.

P. Are matching funds required?

Yes, non-federal matching funds of *at least 25% of the total cost of the project* are required, although EPA encourages matching funds of greater than 25%. Federal funds to support the project must not exceed 75% of the total cost of the project. The 25% match may be provided by the applicant or any another organization or institution, except that no portion of the 25% match can include federal funds (unless specifically authorized by statute). The 25% match may be provided in cash or by in-kind contributions and other non-cash support. In-kind contributions often include salaries or other verifiable costs. In the case of salaries, applicants may use either minimum wage or fair market value. The proposed match, including the value of in-kind contributions, is subject to negotiation with EPA. The value of in-kind contributions must be carefully documented. All grants are subject to audit.

The matching non-federal share is a percentage of the entire cost of the project. For example, if the 75% federal portion is $5,000, then the entire project should, at a minimum, have a budget of $6,667, with the recipient providing a contribution of $1,667. The amount of non-federal funds, including in-kind contributions, must be itemized in Block 15 of the SF 424.

Q. Can I use federal funds in addition to those provided by this program to support the same project?

Yes, you may use federal funds in addition to those provided by this program, but only for different activities. However, you may not use any federal funds to meet all or any part of the required 25% match as stated in Section IV.P. above. If you have already been *awarded* federal funds for a project in which you are seeking additional support from this program, you must indicate in the budget section of the work plan that you have been awarded other federal support for this project. You must also identify the project officer, agency, office, address, phone number, and the amount of the award.

R. Can I request funding for any budget category on the SF 424A (i.e., personnel/salaries, fringe benefits, travel, equipment, supplies, contractual, and indirect charges)?

Yes, you may request funding for any or all of the budget categories identified above with the following exceptions. First, as indicated under Section III.M.1. above, EPA will not fund the acquisition of real property (including buildings) or the construction or modification of any building.

Second, you may request funds to pay for salaries and fringe benefits, but only for those personnel who are directly involved in implementing the proposed project and whose salaries and fringe benefits are directly related to specific products or outcomes of the proposed project. EPA strongly encourages applicants to request *reasonable* amounts of funding for salaries and fringe benefits. Third, you may include a request for indirect costs if your organization has already negotiated and received an indirect cost rate from the federal government.

S. What must be included in the pre-application?

The pre-application must contain an SF 424, SF 424A, and work plan as described below:

1. *Application for Federal Assistance and Budget Information (SF 424 and SF 424A).* The SF 424 and SF 424A are required for all federal grants. A completed SF 424 and SF 424A must be submitted as part of your pre-application. These forms, along with instructions and samples, are included at the end of this notice. Please carefully review the instructions and the sample. Refer to Section IV.R. above for information on what types of budget categories can and cannot be funded under this program.

2. *Work Plan.* A work plan describes your proposed project. *The total number of points possible for each proposal is 100.* These points will be distributed as follows. First, each of the following four sections of the work plan are assigned points which add up to 90. (Certain sections are given more points than others reflecting the relative importance of each section). Second, reviewers will be given the flexibility to provide up to 10 additional points for exceptional projects based upon the overall quality of the proposal. All criteria used to provide these 10 additional points will be consistent with the criteria established in the solicitation.

All work plans must include and be formatted according all four sections (a–d) below:

a. *Project Summary:* Provide EPA with an overview of your entire project. The summary must be *no more than one page* and must briefly include *all seven* of the following:

(1) Describe your organization (and your key partners);

(2) State the goals and specific objectives of your project;

(3) Identify what type of project you will focus on as described under Section III.N.2.a–f. (e.g., teacher training or community-based education);

(4) Describe the demographics of your target audience (including the total number of direct participants, ethnic composition, and type of individuals reached such as teachers, students, or the general public).

(5) Indicate how you will reach your target audience;

(6) Describe the expected results of your project and how you will evaluate it; *and*

(7) Indicate what types of activities the EPA funds will be used for.

The project summary will be scored on how well you provide an overview of your entire project based upon the seven subsections identified above.

Project Summary Maximum Score: 5 points

b. *Project Description*: Provide EPA with an explanation of how your proposed project meets #1 and #2 below.

(1) Explain how the proposed project (a) is new or significantly improved, (b) has wide application, *AND* (c) addresses a priority issue as described under Section III.N.1.a, b, and c.

This subsection will be scored on how well you explain how your proposal meets the three elements identified above. Subsection maximum score: 15 points (5 points for each of the three elements identified above).

(2) Explain how the proposed project (a) improves teaching skills; (b) educates about human health problems from pollution; (c) builds state, local, or tribal capacity; (d) promotes environmental careers; (e) educates a community through a community-based organization; *OR* (f) educates the general public as described under Section III.N.2.a–f.

This subsection will be scored on how clearly and effectively your project (a)

establishes realistic goals and objectives, (b) identifies its target audience and demonstrates an understanding of the needs of that audience, (c) uses an effective means or delivery system for reaching the target audience/implementing the project, and (d) demonstrates that it uses or produces quality educational products or methods which teach critical-thinking, problem-solving, and decision-making skills.

Subsection maximum score: 40 points (10 points for each of the four elements identified in this paragraph)

Project Description Maximum Score: 55 points

c. *Project Evaluation:* Provide EPA with an explanation of how you will determine or measure whether you are meeting the goals and objectives of your project. Evaluation plans may be quantitative and/or qualitative and may include, for example, surveys, observation, or outside consultation.

The project evaluation will be scored on the extent to which (a) your evaluation plan will measure the project's effectiveness and (b) you plan to apply data gathered from your evaluation to strengthen your project.

Project Evaluation Maximum Score: 10 points (5 points for each of the two elements identified above)

d. *Appendices*: Provide EPA with a detailed budget, resumes of key personnel, and letters of commitment. *No other appendices or attachments such as video tapes or sample curricula may be submitted.*

(1) Budget: Describe how you will use the funds for personnel/salaries, fringe benefits, travel, equipment, supplies, contract costs, and indirect costs. You must also include a table which lists each major proposed activity as well as the month and year it will be completed and the amount of EPA funds that will be spent on each activity. For smaller grants, your table may list only one or two activities.

This subsection will be scored on (a) how well the budget information clearly and accurately shows how funds will be used, and (b) whether the funding request is reasonable given the activities proposed. Subsection maximum score: 10 points (5 points for each of the two elements identified in this paragraph).

(2) Key Personnel and Letters of Commitment: Attach one or two page resumes for up to three key personnel implementing the project. Also, include one page letters of commitment from partners (if there are partners) with a significant role in the proposed project. *Do not include letters of support; they will not be considered in evaluating pre-applications.*

This subsection will be scored based upon whether resumes of key personnel are included and whether the key personnel are qualified to implement the proposed project. In addition, the score will reflect whether letters of commitment are included (if partners are used) and the extent to which a firm commitment is made. Subsection maximum score: 10 points.

Appendices Maximum Score: 20 points

T. What are the page limits for the work plan?

Your work plan may include the following number of pages for requests in federal funds of:

1. *$5,000 or less*—EPA prefers a work plan of 3 pages, but will accept up to 5 pages.

2. *$5,001 up to $250,000*—a work plan of up to 10 pages.

These page limits apply *only to the work plan* (i.e., the ''summary,'' ''project description,'' and ''project evaluation''), *not the appendices.* ''One page'' refers to one side of a single-spaced typed page. The pages *must* be letter sized (8½ X 11 inches), with normal type size (10 or 12 cpi) and at least 1 inch margins. *To conserve paper, please provide double-sided copies of the pre-application.*

U. How must the pre-application be submitted?

The applicant must submit one original and two copies of the pre-application (a signed SF 424, an SF 424A, and a work plan). Please submit *ONLY* the SF 424, the SF 424A, and the work plan. Do not include other attachments such as cover letters, tables of contents, or appendices other than those required (budget, resumes, letters of commitment). The SF 424 should be the first page of your pre-application and must be signed by a person authorized to receive funds. Pre-applications must be reproducible; they should not be bound. They should be stapled or clipped once in the upper left hand corner, on white paper, and with page numbers in the upper right hand corner.

V. What regulations must I comply with in submitting my proposal?

The Environmental Education Grant Program Regulations, published in the **Federal Register** on March 9, 1992, provides some additional information on EPA's administration this program (57 **Federal Register** 8390; Title 40 CFR, Part 47 or 40 CFR Part 47). Also, EPA's general assistance regulations at 40 CFR Part 31 applies to state, local, and Indian tribal governments and 40 CFR Part 30 applies to all other applicants such as nonprofit organizations.

Section V. Review and Selection Process

W. How will pre-applications be reviewed and who will conduct the reviews?

Pre-applications will be reviewed in two phases—the screening phase and the evaluation phase. During the screening phase, pre-applications will be reviewed to determine whether they meet the basic requirements of this notice, especially as described under Sections II and III. Only those pre-applications which meet all of the basic requirements will enter the evaluation phase of the review process. During the evaluation phase, pre-applications will be evaluated based upon the quality of their work plans, especially the degree to which the work plan meets the requirements set forth in Section III.N.1 and 2. Reviewers conducting the screening and evaluation phases of the review process will include EPA officials and external environmental educators approved by EPA. At the conclusion of the evaluation phase, the reviewers will score each applicant's work plan based upon the scoring system identified in Section IV.S.2.

X. How will the final selections be made?

After individual projects are evaluated and scored by the reviewers as described under Section V.W. above, *EPA officials in the regions and at headquarters will identify finalists among the highest ranking pre-applications. In making final selections, EPA's goal is to fund diverse types of projects that take into account, but are not limited to, the following:*

1. the geographic location of the project;
2. the type of environmental problem or issue addressed;
3. the type of target audience and their socioeconomic status;
4. the methods used to reach the target audience;
5. the type of organization submitting the proposal and/or whether the proposal makes effective use of partnerships; *and*
6. the cost.

In reference to *socioeconomic status,* under Section V.X.1. above, EPA's goal is to encourage applicants to submit proposals that promote *environmental justice* for culturally-diverse and low-income populations. EPA hopes to fund many proposals which score high in the evaluation process and which promote *environmental justice.* The term environmental justice refers to the fair treatment of people of all races, cultures, and income with respect to the development, implementation and

enforcement of environmental laws, regulations, and policies. Fair treatment means that no racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from the operation of industrial, municipal, and commercial enterprises and from the execution of federal, state, local, and tribal programs and policies.

Efforts to address environmental justice through environmental education may include educational programs that provide culturally-diverse and low-income populations with critical-thinking, problem-solving, and decision-making skills to identify, assess, and address an environmental problem that has a disproportionately high and adverse human health or environmental impact in their community.

In reference to the *effective use of partnerships,* under Section V.X.3. above, EPA's goal is to encourage applicants to submit proposals which form partnerships, where possible. EPA hopes to fund many proposals which score high in the evaluation process and which promote the effective use of partnerships between organizations. The term partnerships refers to forming a collaborative working relationship between two or more organizations such as governmental agencies, non-profit organizations, educational institutions, and/or the private sector.

In reference to the *type of environmental issue,* under Section V.X.4. above, EPA's goal is to encourage applicants to submit proposals which use pollution prevention concepts or techniques to address a high priority environmental issue (as discussed under Section III.N.1.c.). EPA hopes to fund many proposals which score high in the evaluation process and which convey the importance of pollution prevention. The term pollution prevention refers to reducing or eliminating waste or pollution at the source. It means not creating waste or pollution in the first place, instead of deciding how to recycle, treat, or dispose of waste and pollution that has already been created. Pollution prevention may include increasing energy efficiency and resource conservation efforts, as well as finding non-polluting substitutes for existing products and activities.

Pollution prevention is EPA's preferred approach to reduce risk to public health and the environment. Efforts to promote pollution prevention through environmental education may include projects that educate the public about the value of preventive approaches to environmental problems and the choices they can make in their everyday lives to minimize adverse effects of human activities on the environment (e.g., in the home, work place, market place, and/or community).

EPA Regional Administrators will select grant recipients for projects with federal environmental education grant funding of $25,000 or less, taking into account the recommendations of the regional environmental education coordinators who will base their recommendations on the factors discussed above. The Associate Administrator for Communications, Education, and Public Affairs at EPA headquarters will select the grant recipients for projects with federal environmental education grant funding of more than $25,000 and up to $250,000, taking into account the recommendations of the Environmental Education Division Director who will base the recommendations on the factors discussed above.

Y. How and when will I be notified about the status of my proposal?

Applicants will receive a confirmation that EPA has received their pre-application once EPA has received all pre-applications and entered them into a computerized data base (in the winter of 1995–1996). EPA will notify applicants again after awards have been announced (in the spring of 1996). To the extent possible, this notification will include feedback on those proposals which were screened out of the process early and on how proposals were evaluated. The degree to which EPA can provide such feedback will vary among EPA offices depending upon the availability of resources to conduct these activities.

Z. Where may I obtain more information on possible sources of funding other than this program?

The large number of pre-applications EPA received in the past four years demonstrates the strong demand for funding environmental education projects. Unfortunately, EPA alone cannot meet this demand. In cooperation with EPA, the North American Association for Environmental Education (NAAEE) has developed a publication called ''Grant Funding For Your Environmental Education Program'' which provides strategies for identifying potential sources of funding. This publication can be purchased for a $5.00 fee by writing to NAAEE, Publications and Member Services, P.O. Box 400, Troy, Ohio, 45373.

Section VI. Grant Recipient Activities

AA. When can I begin incurring costs?

Grant recipients may begin incurring costs on the start date identified in your EPA grant agreement. Since EPA plans to announce awards in the spring of 1996, EPA recommends that you do not plan to begin incurring costs until June of 1996.

BB. May an applicant request Fiscal Year 1996 funds for a project that extends beyond a one-year budget period?

Pre-applications submitted to EPA regional offices for up to $5,000 may request funds for only a one-year budget period. Pre-applications submitted to EPA regional offices or headquarters requesting funds of more than $5,000 may request funds for up to a two-year budget period, although EPA strongly encourages applicants to request funds for only a one-year budget period.

CC. Who will perform projects and activities?

The Act requires that projects be performed by the applicant or by a person satisfactory to the applicant and EPA. All pre-applications must identify any person other than the applicant that will assist in carrying out the project.

DD. What reports and work products must grant recipients submit to EPA and when are they due?

All grant recipients must submit two copies of their final report and two copies of all work products to the EPA project officer within 30 days after the expiration of the budget period. This report will be accepted as the final report unless the EPA project officer notifies you that changes must be made. Grant recipients with projects that have a two-year budget period must also submit a progress report at the end of the first year. Grant recipients with a federal environmental education grant share greater than $5,000 may also be required to submit a semi-annual progress report. Specific report requirements will be identified in the EPA award agreement.

EE. What does EPA plan to do with the grant recipients' final reports and final work products?

EPA hopes to assemble a central library of all final reports and work products at headquarters in Washington, D.C. EPA plans to evaluate these final reports and work products and may disseminate them to others to serve as model programs.

Section VII. Additional Information on Preparing Pre-Applications and for the FY 1997 Program

FF. Where can I get additional information in preparing my pre-application?

EPA strongly encourages applicants to carefully read the solicitation notice. Many questions, such as when is the deadline for submitting pre-applications

and what activities can be funded under this program, are answered in this solicitation. *Applicants who need more information about this grant program or clarification about specific requirements in this solicitation notice, may contact the EPA Environmental Education Division in Washington, D.C. for grant requests of more than $25,000 or your EPA regional office for grant requests of $25,000 or less. A list of the names and telephone numbers of EPA representatives are listed at the end of this notice.* Information about the grants program is also available on the Internet. You can view and download this solicitation notice, a list of EPA environmental education contacts, and descriptions of past projects funded under this program from:

Gopher: ''nceet.snre.umich.edu'' (in the ''Grants'' directory'') or from

World Wide Web: ''http://www.nceet.snre.umich.edu/grant.html''

In addition, may contact the National Consortium for Environmental Education and Training (NCEET) at the University of Michigan for *general information* on current environmental education activities and recent developments in the field (e.g., information about current in-service teacher education needs and opportunities as well as resources that identify environmental education organizations, curricula, and research). NCEET can also provide you with a list of all environmental education grants awarded by EPA during the past four years. *NCEET will not provide sample curricula nor will they evaluate products or funding proposals.* NCEET was established in 1992 with financial support from EPA to facilitate teacher training opportunities. You may contact NCEET by writing to NCEET, School of Natural Resources, University of Michigan, Dana Building, Ann Arbor, Michigan, 48109–1115 or by calling 313–998–6726.

GG. How can I get information on the Fiscal Year 1997 EPA Environmental Education Grants Program?

EPA develops an entirely new mailing list for the grants program each year. The Fiscal Year 1997 mailing list will include all applicants who submitted pre-applications for Fiscal Year 1996 as well as anyone else who specifically requests to be placed on the mailing list. If you did not submit a pre-application for Fiscal Year 1996 and you wish to be added to our mailing list to receive information on the Fiscal Year 1997 Environmental Education Grants Program, you must mail your request—please do not telephone—along with your name, organization, address, and phone number to: U.S. Environmental Protection Agency, Environmental Education Division (1707), Environmental Education Grants Program (FY 1997), 401 M Street, S.W., Washington, D.C. 20460.

Approved By:

Denise Graveline,

Acting Associate Administrator, Office of Communications, Education, and Public Affairs.

U.S. EPA Representatives and Mailing Addresses

U.S. EPA Headquarters—For Grants Over $25,000

Mail pre-applications to: U.S. EPA, Env Ed Grants, Environmental Education Division (1707), Office of Communications, Education, and Public Affairs, 401 M Street, S.W., Washington, D.C. 20460

Information: George Walker or Kathleen MacKinnon, Environmental Education Specialists, 202–260–8619

U.S. EPA Regional Offices—For Grants of $25,000 or less

EPA Region I—CT, ME, MA, NH, RI, VT

Mail pre-applications to: U.S. EPA, Region I, Env Ed Grants, Henry Burrell, Chief, Grants Information and Mgnt Section, JFK Federal Building (PGI), Boston, MA 02203

Hand-deliver to: One Congress Street, 11th Floor, Mail Room, Boston, MA 02114 (8am–4pm)

Information: Maria Pirie, EE Coordinator, 617–565–9447

EPA Region II—NJ, NY, PR, VI

Mail pre-applications to: U.S. EPA, Region II, Env Ed Grants, Grants Administration Branch, 290 Broadway, 27th Floor, New York, NY 10007–1866

Information: Teresa Ippolito, EE Coordinator, 212–637–3671

EPA Region III—DC, DE, MD, PA, VA, WV

Mail pre-applications to: U.S. EPA, Region III, Env Ed Grants, Grants Management Section (3PM71), 841 Chestnut Street, Philadelphia, PA 19107

Information: EE Coordinator, 215–597–9076

EPA Region IV—AL, FL, GA, KY, MS, NC, SC, TN

Mail pre-applications to: U.S. EPA, Region IV, Env Ed Grants, Office of Public Affairs (E2), 345 Courtland Street, NE, Atlanta, GA 30365

Information: Fred Thornburg, Environmental Education Office, 404–347–3004

EPA Region V—IL, IN, MI, MN, OH, WI

Mail pre-applications to: U.S. EPA, Region V, Env Ed Grants, Grants Management Section (MC–10J), 77 West Jackson Boulevard, Chicago, IL 60604

Information: Suzanne Saric, EE Coordinator, 312–353–3209

Region VI—AR, LA, NM, OK, TX

Mail pre-applications to: U.S. EPA, Region VI, Env Ed Grants, Environmental Education Coordinator (6X), 1445 Ross Avenue, Dallas, TX 75202

Information: Sandy Sevier, EE Coordinator, 214–665–2204

Region VII—IA, KS, MO, NE

Mail pre-applications to: U.S. EPA, Region VII, Env Ed Grants, Grants Administration Division, 726 Minnesota Avenue, Kansas City, KS 66101

Information: Rowena Michaels, EE Coordinator, 913–551–7003

Region VIII—CO, MT, ND, SD, UT, WY

Mail pre-applications to: U.S. EPA, Region VIII, Env Ed Grants, 999 18th Street (80EA), Denver, CO 80202–2466

Information: Cece Forget, EE Coordinator, 303–294–1113

Region IX—AZ, CA, HI, NV, American Somoa, Guam, Northern Marianas

Mail pre-applications to: U.S. EPA, Region IX, Env Ed Grants, Office of Public Affairs (E2), 75 Hawthorne Street, San Francisco, CA 94105

Information: Matt Gaffney, Office of Public Affairs, 415–744–1582

Region X—AK, ID, OR, WA

Mail pre-applications to: U.S. EPA, Region X, Env Ed Grants, Public Information Center (SO–143), 1200 Sixth Avenue, Seattle, WA 98101

Information: Sally Hanft, EE Coordinator, 206–553–1207

BILLING CODE 6560–50–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 6 6 . 9 5 1

TITLE Environmental Educational Grants

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant b. Project

15. ESTIMATED FUNDING

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☒ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BUDGET INFORMATION — Non-Construction Programs

Section A- Budget Summary

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

Section B-Budget Categories

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. Totals (sum of 6i and 6j)	$	$	$	$	$
Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 6560-50-C

Instructions for the SF–424

This is a standard form used by applicants as a required factsheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue to revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Additional Instructions for the SF–424

Block #6: You can obtain this number from your payroll office. It is the same Federal Identification Number which appears on W–2 forms. If your organization does not have a number, you may obtain one by calling the Taxpayer Services number for the IRS.

Block #14: If your project covers many areas, several congressional districts will be listed. If it covers the entire state, simply put in statewide. If your are not sure about the congressional district, call the County Voter Registration Department.

Block #15: Line a is for the amount of money you are requesting from EPA. Lines b–e are for the amounts either you or another organization are providing for this project. Line f is for any program income which you expect will be generated by this project. Program income can be fees for services performed, income generated from the sale of a brochure which was produced with the grant funds, or admission fees to a conference financed by the grant funds. The total of lines b–e must be at least 25% of line g, as this grant has a match requirement of 25% of the TOTAL ALLOWABLE PROJECT COSTS.

Block #16: Check b, (NO) since your application does not have to be sent through the state clearinghouse for review.

Block #18: The authorized representative is the person who is able to contact or obligate your agency to the terms and conditions of the grant. (Please sign with blue ink.)

Instructions for the SF–424A

Do not fill in Section A—Budget Summary.

Section B Budget Categories

All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B. Include both Federal and non-Federal (matching) funds combined.

For each major program, function or activity, fill in the total requirements for funds by object class categories. Most applications will only have one program, function, or activity.

Line 6I—Show the totals of lines 6a through 6h in each column.

Line 6j—Show the amount of indirect cost (if applicable).

Line 6k—Enter the total of amounts on Lines 6i and 6j.

Program Income—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income.

BILLING CODE 6560–50–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: 10/10/95

Applicant Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☒ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

3. DATE RECEIVED BY STATE

State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

5. APPLICANT INFORMATION

Legal Name: Clean-Up School

Organizational Unit: Environmental Office

Address (give city, county, state, and zip code): 100 State Street, Belle View, Green County, Any State 12345

Name and telephone number of the person to be contacted on matters involving this application (give area code): Willie Doitt (123)456-7890

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 1 2 — 3 4 5 6 7 8 9

7. TYPE OF APPLICANT: (enter appropriate letter in box) [H]
A State
B. Co
municipal
Special District
H Independent School Dist
I State Controlled Institution of Higher Learning
J Private University
K Indian Tribe
L Individual
M Profit Organization
N Other (Specify)

8. TYPE OF APPLICATION:
☒ New ☐ Continuation ☐ Rev
If Revision, enter appropriate letter(s) in box(es) ☐ ☐
A Increase Award B Decrease Award
D Decrease Duration Other (specify)

SAMPLE

9. NAME OF FEDERAL AGENCY: U.S. EPA

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 6 6 . 9 5 1
TITLE: Environmental Educational Grants

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Teacher environmental workshop: behavioral changes in setting positive influences on students

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): Green and Surrounding Counties

13. PROPOSED PROJECT: Start Date 06/01/96; Ending Date 05/31/97

14. CONGRESSIONAL DISTRICTS OF: a Applicant 02; b Project 01, 02, 03

15. ESTIMATED FUNDING:

a Federal	$ 5,000.00
b Applicant	$ 1,667.00
c State	$ .00
d Local	$ .00
e Other	$ .00
f Program Income	$ .00
g TOTAL	$ 6,667.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO ☒ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative: Gertrude Smith
b. Title: Superintendent
c. Telephone number: 123-456-0987
d. Signature of Authorized Representative: Gertrude Smith
e. Date Signed: 10/10/95

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

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BUDGET INFORMATION — Non-Construction Programs

Section A- Budget Summary

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

Section B-Budget Categories

6. Object Class Categories	Grant Program, Function or Activity (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$ 2,000	$	$	$	$ 2,000
b. Fringe Benefits	500				500
c. Travel	2,000				2,000
d. Equipment	0				0
e. Supplies	667				667
f. Contractual	1,000				1,000
g. Construction	xxxxxxx				xxxxxxx
h. Other	500				500
i. Total Direct Charges	6,667				6,667
j. Indirect Charges					
k. Totals (sum of 6i and 6j)	$ 6,667	$	$	$	$ 6,667
Program Income	$	$	$	$	$

SAMPLE

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

[FR Doc. 95–18991 Filed 8–3–95; 8:45 am]
BILLING CODE 6560–50–C

federal register

Friday
August 4, 1995

Part III

Environmental Protection Agency

40 CFR Part 80

Reformulated and Conventional Gasoline Standards; Final and Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–5267–5]

Regulation of Fuels and Fuel Additives: Administrative Stay of Certain Standards for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative stay.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is issuing a three-month administrative stay of certain portions of the anti-dumping regulations for conventional gasoline (gasoline not certified as reformulated gasoline) which were promulgated in December 1993. Specifically, today's action stays criteria of the existing requirements for obtaining an individual refinery baseline adjustment due to the production of JP–4 jet fuel in 1990 and criteria of the conventional gasoline provisions concerning refiners that are no longer able to obtain extremely sweet crude which was available in 1990 and was used to develop the 1990 individual baseline. In a related Notice of Proposed Rulemaking, which is published elsewhere in this issue of the **Federal Register**, EPA is proposing new baseline adjustment criteria for these two cases. In both of these cases, the stay only applies to those refiners that meet the new proposed criteria for a baseline adjustment.

EFFECTIVE DATE: This final rule is effective August 4, 1995.

ADDRESSES: Materials relevant to the reformulated gasoline Final Rule are contained in Public Dockets A–91–02 and A–92–12. Materials relevant to the Notice of Proposed Rule on baseline adjustments are contained in Public Docket A–95–03. These dockets are located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Carol Menninga, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Rd., Ann Arbor, MI 48105. Telephone (313) 668–4480. To request copies of this document, contact Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Rd., Ann Arbor, MI 48105. Telephone (313) 668–4295.

SUPPLEMENTARY INFORMATION:

I. Electronic Copies of Rulemaking Documents Through the Technology Transfer Network Bulletin Board System (TTNBBS)

A copy of this document is available electronically on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information:

TTN BBS: 919–541–5742
(1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Help-line: 919–541–5384
Accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov
Off-line: Mondays from 8:00 AM to 12:00 Noon ET

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<3> Fuels
<9> File Area #9 . . . Reformulated gasoline

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. These files are compressed (i.e., ZIPed). Today's notice can be identified by the following title: JP4STAY.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTNBBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

II. Administrative Stay

The administrative stay of the provisions concerning JP–4 and certain changes in sweet crude oil are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for three months if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule. In a separate Notice of Proposed Rulemaking, which is published elsewhere in this issue of the **Federal Register**, EPA is proposing to extend the stay for the duration of a rulemaking proposing these changes to the criteria for a baseline adjustment.

The grounds for an objection to the criteria for an individual baseline adjustment based on production of JP–4 jet fuel arose after the end of the public comment period for the Final Rule, ''Regulation of Fuels and Fuel Additives; Standards for Reformulated and Conventional Gasoline,'' (59 FR 7716, February 16, 1994) and before the time allowed for seeking judicial review. New information has since been submitted to EPA concerning the number of parties potentially affected by the criteria adopted, and the ability of parties with more than one refinery to aggregate baselines and thereby avoid the adverse impacts of a failure to obtain an individual baseline adjustment. This information became available to EPA after the final criteria were adopted by EPA, and are directly relevant to the basic rationale for those criteria. Because this information concerns the impact of the final criteria adopted by EPA, it was not available at the proposal stage.

Similarly, the grounds for an objection to a lack of a baseline adjustment based on changes in the sulfur level of available crude oil arose after expiration of the period for public comment. It appears that the sulfur levels of crude have changed significantly since 1990 for certain areas of the country. Until EPA issued its final rules in December 1993, and more information was obtained on the sulfur levels of crude that would be available for use in 1995 and later, refiners that have historically relied on the availability of low sulfur crude could not identify for EPA the full impact of the final conventional gasoline

requirements on their ability to continue marketing conventional gasoline.

Based on the above, and the Agency's interest in reconsidering these provisions (discussed in the separate Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**), EPA hereby issues a three-month administrative stay of the effectiveness of the following rules, with certain conditions keyed to the requirements proposed elsewhere in this issue of the **Federal Register**. The stay is structured such that it will only affect those persons who meet the proposed requirements for a baseline adjustment.

First, 40 CFR 80.91(e)(7)(i)(A) through (C) is stayed for three months for all persons that meet the requirements of section 80.91(e)(7) as proposed in a separate Notice of Proposed Rulemaking. In effect, persons who meet the proposed requirements would be able to receive a baseline adjustment under 80.91(e)(7) if they also met the requirements of 80.91(e)(7) (ii) and (iii). If a person does meet these conditions, then the Agency may approve a baseline adjustment under the terms of this stay, or under the terms of any stay issued through rulemaking.

Second, 40 CFR 80.101(b)(1)(ii) is stayed for three months for all persons that meet the requirements proposed elsewhere in this issue of the **Federal Register** as of a new proposed section 80.91(e)(8), and that comply with an annual average sulfur level of 125% of the compliance baseline that would apply under the new proposed section 80.91(e)(8). In effect, the stay would only affect those persons who meet the proposed requirements for a baseline adjustment and who also meet the annual average sulfur level for conventional gasoline that would apply if they received a baseline adjustment under the related Notice of Proposed Rulemaking.

The terms of the three-month administrative stay apply to all gasoline produced from January 1, 1995 through to the end of any such stay.

III. Environmental and Economic Impacts

The environmental impacts of today's action are minimal, as discussed above. Additionally, economic impacts are generally beneficial to affected refiners due to the additional flexibility afforded by the stay in combination with the baseline adjustments in a related Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**. Minimal anti-competitive effects are expected. The environmental and economic impacts of the reformulated gasoline program are described in the Regulatory Impact Analysis supporting the December 1993 rule, which is available in Public Docket A–92–12 located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

IV. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of their regulations and to identify any significant adverse impacts of those regulations 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. In fact, today's action is designed to promote successful implementation of the anti-dumping requirements of the reformulated gasoline program for all affected parties.

V. Administrative Designation

Pursuant to Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of 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 entitlement, 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, it has been determined that this final rulemaking is not a ''significant regulatory action''.

VI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

VII. Unfunded Mandates Act

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

EPA has determined that today's action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

XIII. Statutory Authority

The statutory authority for the administrative stay granted today is Section 307(d) and 301 of the Clean Air Act as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: July 21, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.91 is amended by adding a new paragraph (e)(7)(iv) to read as follows:

§ 80.91 Individual baseline determination.

* * * * *

(e) * * *

(7) * * *

(iv) The provisions of § 80.91(e)(7)(i)(A) through (C) are stayed until October 19, 1995, for all refiners which meet the following requirements:

(A) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery produced JP–4 jet fuel in 1990 and all of the following requirements are also met:

(*1*) The type of refinery must be described as one of the following:

(*i*) The refinery is the only refinery of a refiner such that it cannot form an aggregate baseline with another refinery (per paragraph (f) of this section); or

(*ii*) The refinery is one refinery of a multi-refinery refiner for which all of its refineries produced JP–4 in 1990 and each of the refineries also meets the requirements specified in paragraphs (e)(7)(iv)(A)(*2*) and (*3*); or

(*iii*) The refinery is one refinery of a multi-refinery refiner for which not all of the refiner's refineries produced JP–4 in 1990.

(*2*) No refinery of the refiner produces reformulated gasoline. If any refinery of the refiner produces reformulated gasoline at any time in a calendar year, the compliance baseline of all its refineries receiving a baseline adjustment per this paragraph (e)(7)(A) shall revert to each refinery's unadjusted baseline for that year and all subsequent years.

(*3*) 1990 JP–4 to gasoline ratio.

(*i*) For a refiner per paragraph (e)(7)(iv)(A)(*1*)(*i*) of this section, the ratio of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(*ii*) For a refiner per paragraph (e)(7)(iv)(A)(*1*)(*ii*) of this section, the ratio of each of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(*iii*) For a refiner per paragraph (e)(7)(iv)(A)(*1*)(*iii*) of this section, the ratio of the refiner's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15, when determined across all of its refineries.

(B) [Reserved]

* * * * *

3. Section 80.101 is amended by adding a new paragraph (b)(1)(v) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(b) * * *

(1) * * *

(v) The provisions of § 80.101 (b)(1)(ii) are stayed until October 19, 1995, for all refiners that meet the following requirements:

(A)(*1*) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery meets all of the following requirements:

(*i*) The refinery does not produce reformulated gasoline. If the refinery produces reformulated gasoline at any time in a calendar year, its compliance baseline shall revert to its unadjusted baseline values for that year and all subsequent years;

(*ii*) Has an unadjusted baseline sulfur value of not more than 50 ppm;

(*iii*) Is not aggregated with one or more other refineries per § 80.91(f). If a refinery which received an adjustment per this paragraph (b)(1)(v) subsequently is included in an aggregate baseline, its compliance baseline shall revert to its unadjusted baseline values for that year and all subsequent years;

(*iv*) Would require refinery improvements of at least $10 million or 10 percent of the depreciated value of the refinery to comply with its unadjusted baseline;

(*v*) Can show that it could not reasonably or economically obtain crude oil from an alternative source that would permit it to produce conventional gasoline which would comply with its unadjusted baseline;

(*vi*) Has experienced at least a 25% increase in the average sulfur content of the crude oil used in the production of gasoline in the refinery since 1990, calculated as follows:

$$\frac{(\mathrm{CSHI} - \mathrm{CS90}}{\mathrm{CS90}} \times 100 = \mathrm{CS\%CHG}$$

Where:

CSHI=highest annual average crude slate per paragraph (b)(1)(v)(A)(*2*)(*ii*) of this section

CS90=1990 annual average crude slate sulfur per paragraph (b)(1)(v)(A)(*2*)(*i*) of this section

CS%CHG=percent change in average sulfur content of crude slate; and

(*vii*) Can show that gasoline sulfur changes are directly and solely attributable to the crude sulfur change, and not due to alterations in refinery operation nor choice of products.

(*2*) The adjusted baseline sulfur value shall be calculated as follows:

(*i*) Determine the average sulfur content (ppm) of the crude slate utilized in the production of gasoline in the refinery in 1990;

(*ii*) Determine the highest crude sulfur level (ppm) of the crude slate utilized in the production of gasoline in the refinery in 1994; and

(*iii*) Determine the adjusted baseline sulfur value as follows:

$$\mathrm{ASULF} = \frac{\mathrm{CSHI}}{\mathrm{CS90}} \times \mathrm{BSULF}$$

Where:

ASULF=adjusted baseline sulfur value, ppm

BSULF=actual baseline sulfur value, ppm

CSHI=highest crude sulfur (ppm) per paragraph (b)(1)(v)(A)(*2*)(*ii*) of this section

CS90=1990 annual average crude slate sulfur per paragraph (b)(1)(v)(A)(*2*)(*i*) of this section

(*3*) In no case can the adjusted baseline sulfur value determined per paragraph (b)(1)(v)(A)(*2*) of this section exceed the sulfur value specified in § 80.91(c)(5)(iii).

(*4*) All adjustments made pursuant to this paragraph (b)(1)(v) must be accompanied by:

(*i*) Unadjusted and adjusted fuel parameters and emissions; and

(*ii*) A narrative describing the situation, the types of calculations, and the reasoning supporting the types of calculations done to determine the adjusted values.

(B) Annual average levels of sulfur shall not exceed 125% of the refiner's compliance baseline of sulfur, using the adjusted baseline determined under paragraph (b)(1)(v)(A) of this section.

* * * * *

[FR Doc. 95–18992 Filed 8–3–95; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–5214–7]

Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the Clean Air Act, as amended in 1990 (CAA or the Act), the Environmental Protection Agency (EPA or the Agency) promulgated anti-dumping regulations for conventional gasoline (gasoline not certified as reformulated gasoline (RFG)). These regulations require that conventional gasoline not be more polluting than it was in 1990. The regulations for conventional gasoline include provisions for the development of individual refinery baselines and other compliance provisions. This proposal would modify the requirements for obtaining a baseline adjustment due to the production of JP–4 jet fuel in 1990. Additionally, EPA is proposing to allow a baseline adjustment due to the inability to acquire extremely sweet crude that had been available in 1990 and from which the gasoline used to develop the 1990 individual baseline was obtained. With regard to both of these baseline adjustment proposals, EPA is issuing a three-month administrative stay (which is published elsewhere in this issue of the **Federal Register**) of the applicable portions of the December 1993 final rule and proposes to extend such stay by rule pending the outcome of this rulemaking. EPA is also proposing a baseline adjustment for refiners which have both extremely low baseline sulfur and olefin levels. A refiner is severely limited in its ability to comply with its individual baseline when the baseline values of both of these parameters are very low. For refiners which qualify for one or more of the baseline adjustments proposed today, EPA proposes to apply the adjustments to gasoline produced in 1995. Finally, EPA is also proposing to revise its regulations concerning the publication and confidentiality of individual baselines and information submitted to obtain an individual baseline.

DATES: EPA will conduct a hearing (date and location to be announced) if a request for such is received by September 5, 1995. The comment period on this document will close September 5, 1995 unless a hearing is requested, in which case the comment period will close 30 days after the close of the public hearing.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Public Docket No. A–95–03 at Air Docket Section, U.S. Environmental Protection Agency, Waterside Mall, Room M–1500, 401 M Street S.W., Washington, D.C. 20460. The Agency requests that commenters also send a copy of any comments to Christine M. Brunner at the address listed below in the ''Further Information'' section.

The support document containing detailed discussion of today's proposal is contained in Public Docket A–95–03. Materials relevant to the reformulated gasoline final rule are contained in Public Dockets A–91–02 and A–92–12. These dockets are located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The docket may be inspected from 8:00 a.m. until 5:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Christine M. Brunner, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4287.

SUPPLEMENTARY INFORMATION: *To Request Copies of This Document Contact:* Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4295.

A copy of this document is also available electronically on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information:

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(1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Help-line: 919–541–5384

Accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00 AM to 12:00 Noon ET.

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<3> Fuels
<9> File Area #9 * * * Reformulated gasoline

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. These files are compressed (i.e., ZIPed). Today's notice can be identified by the following title: JP4NPRM.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTNBBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Introduction

Compliance with certain aspects of the reformulated and conventional gasoline regulations depends on the individual baseline of the refinery or refiner.[1] The individual baseline is the set of fuel parameter values, emissions and volumes which represent the quality and quantity of the refiner's 1990 gasoline. See 40 CFR 80.91. EPA's regulations establish requirements for developing an individual baseline. For specific situations, the Agency allowed the baseline fuel parameters, volumes and emissions values to be adjusted to reflect certain limited unique instances. Allowable circumstances under the regulations include unforeseen downtime of a gasoline blendstock producing unit, nonannual maintenance, work-in-progress and

[1] In general, the anti-dumping provisions apply to refiners or importers of conventional gasoline. The baseline adjustment provisions proposed in today's notice, however, are applicable only to refiners and their refineries.

production of JP–4 jet fuel. In such cases, EPA has ''case-by-case discretion'' to grant variances or even dispensation from a rule where imposition of the requirement would result in minimal environmental benefit but would extremely burden a regulated party.[2]

This notice of proposed rulemaking (NPRM) proposes to allow baseline adjustments for three situations where parties would be extremely burdened by the current regulations were relief not granted. Specifically, today's notice proposes to revise the requirements for a baseline adjustment due to JP–4 jet fuel production in 1990, to add a provision addressing the use of extremely sweet crude in 1990 which is no longer available, and to add a provision addressing compliance difficulties arising from a baseline which is very low in both sulfur and olefins. EPA is also issuing a three-month administrative stay, which is published elsewhere in this issue of the **Federal Register**, with regard to the first two baseline adjustment issues above pending reconsideration of the applicable provisions by the Agency. In addition, EPA proposes to extend the stay until final action is taken on the regulatory changes proposed herein. For refiners which qualify for one or more of the baseline adjustments proposed today, EPA proposes to apply the adjustments to gasoline produced in 1995. This notice also proposes to revise the regulations concerning the publication and confidentiality of individual baselines and the information submitted to receive such a baseline. Comments and supporting data are requested on any aspect of today's document.

II. JP–4 Baseline Adjustment

A. Introduction

JP–4 jet fuel, the use of which is being phased out by the Defense Department, was produced by many refiners under contract with the Defense Department in 1990. Because the JP–4 blendstock is now likely to be used in gasoline, most of that blendstock cannot be used in gasoline without first going through a reformer to increase its octane to suitable gasoline levels. Due to the high aromatic content of streams after reforming, the toxic emissions of the current gasoline of a refiner which produced JP–4 in 1990 will likely increase relative to its 1990 values. In addition, it is possible that gasoline production would increase (relative to 1990 production) due to movement of blendstocks directly and indirectly from JP–4 to gasoline. The impact of the increase in aromatic content and/or additional volume due to JP–4 phaseout will, of course, affect certain refiners more extremely than others.

The current regulations provide for an adjustment to a refiner's individual baseline due to production of JP–4 in 1990 if three criteria are met. The criteria were fashioned to ensure that the requirements of *Alabama Power* were met. First, JP–4 baseline adjustments will be allowed only for a refiner which will not produce reformulated gasoline. If a refiner granted such an adjustment subsequently produces reformulated gasoline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and all subsequent years. For multi-refinery refiners, this provision applies on a refiner-wide basis. Second, a JP–4 baseline adjustment is available primarily to qualifying single-refinery refiners. A multi-refinery refiner could also receive an adjustment if each of its refineries produced JP–4 in 1990 and each refinery also met the other requirements for obtaining the adjustment. Third, the refiner is required to show that a significant burden would exist if no baseline adjustment was allowed. The current regulations require that the ratio of a refinery's 1990 JP–4 production to its 1990 gasoline production equal or exceed 0.5 in order to qualify as a significant burden.

EPA expected minimal negative environmental affects from allowing baseline adjustments under the criteria specified in the current regulations because (1) the number of refineries meeting the criteria for a baseline adjustment is expected to be quite small, and (2) the total production of all such refineries is also small.

B. Proposal

In today's notice, EPA proposes provisions related to JP–4 baseline adjustments which are essentially as contained in the direct final rule (DFRM), published July 20, 1994 (59 FR 36944).[3] The provisions are discussed below. For detailed discussion of the provisions proposed today, refer to the support document for this rule, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.

1. Multiple-Refinery Requirement

EPA proposes that the following conditions would have to be met by a multi-refinery refiner in order for that refiner to qualify for a baseline adjustment for 1990 JP–4 production at one or more of its refineries:

(1) *Produced JP–4 at one or more of its refineries in 1990.*

The current JP–4 baseline adjustment provisions for multi-refinery refiners require each refinery to have produced JP–4 in 1990. EPA believes it may use its discretion to provide relief because the requirements of *Alabama Power* are satisfied. If a multi-refinery refiner qualifies for a baseline adjustment under this criterion, it would (1) determine the adjusted baseline of the refinery(ies) which actually produced JP–4 in 1990 and (2) determine its anti-dumping compliance on an aggregate basis.

(2) *Has a 1990 JP–4 to gasoline ratio of at least 0.15 (see discussion below regarding JP–4 baseline adjustment ratio).*

(a) For each individual refinery, if all of its refineries produced JP–4 in 1990, in which case the refiner may comply with the anti-dumping requirements on an individual or aggregate basis; or

(b) On a refiner-wide basis, in which case the refiner must determine an individual baseline for each of its refineries but must comply with the anti-dumping requirements on an aggregate basis; and

(3) *Will not produce RFG at any of its refineries.*

EPA requests comments on this change to the current JP–4 baseline adjustment provisions concerning multi-refinery refiners.

2. JP–4 Baseline Adjustment Ratio

The current regulations for a baseline adjustment require that the ratio of the refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.5. Based on responses from affected refiners, very few refiners under contract to produce JP–4 would have the relief intended by the provision. Further, EPA has evaluated data it received subsequent to December 1993 concerning 1990 JP–4 and gasoline production for refiners (both multi- and

[2] *Alabama Power Company* v. *Costle*, 636 F.2d 323.357 (D.C. Cir 1979).

[3] Since EPA received adverse comments on the changes specified in the DFRM with regard to JP–4 baseline adjustments, EPA withdrew this DFRM based on EPA's determination, announced in the DFRM, that such provisions would take effect only if no persons submitted adverse comments or requested an opportunity to comment. For more discussion, see the support document, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.

single refinery refiners)[4] and is hereby proposing that the ratio be reduced to 0.15. EPA believes this ratio will allow three to four refiners which dedicated a substantial amount of 1990 production to JP–4 production and for which converting the associated feedstock for use in gasoline would be a severe economic burden. This value is in line with the ratio options that were suggested by commenters during the original rulemaking. At a ratio of less than 0.15, EPA believes the impact on benzene and aromatics may make it more costly for refiners to comply with the regulations, though it is unlikely that such refiners will be forced out of business or experience extreme burden.

EPA expects minimal negative environmental affects due to the reduction of the ratio requirement to 0.15 because the expanded provision will still apply to a very limited number of refiners producing a limited amount of conventional gasoline. EPA requests comments on the proposal discussed above.

3. Comments Received on the DFRM

For a discussion of comments received on the DFRM, please see the support document for this rule (''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03).

III. Crude Quality Baseline Adjustment

A. Introduction

Crude sulfur content is increasing nationwide[5] and, while for most refiners increases in crude sulfur content should be considered manageable, such increases might be devastating for certain refiners. EPA has also been informed that the quality of the crude oil (with regard to sulfur content) available to refiners in PADD IV has been deteriorating faster than the rest of the U.S. since 1990.[6] Additionally, refiners in this region do not have access to imports of foreign crudes other than those from Canada. Thus, the quality of crude oil reasonably and economically available to these refiners, from traditional or alternative sources, is quite limited. Prior to promulgation of the December 1993 rules, EPA did not know that the deterioration of crude oil available to certain refiners (with regard to increasing sulfur content) might in some cases force them to cease operation in order to avoid noncompliance as compliance options for such a refiner might be prohibitively expensive.

The current regulations generally do not allow baseline adjustments for changing crude quality or availability. However, as discussed in the preamble to the December 1993 final rule, EPA recognized that a refiner's ability to comply with its individual baseline can be extremely burdensome due to certain factors, such as changes in crudes, markets, and fuel specifications. As with the work-in-progress baseline adjustment and the JP–4 baseline adjustment which is discussed above, EPA believes it has the authority to provide limited relief in the form of a baseline adjustment in those situations where the anti-dumping regulatory burden is extremely onerous and where requiring compliance would yield little or no environmental gain. Thus, EPA is proposing such a baseline adjustment where a dramatic increase in crude sulfur content has occurred which could severely affect the anti-dumping compliance of refiners with extremely low baseline sulfur values. EPA requests comments on the discussion and proposed criteria presented today. EPA also requests data which supports or refutes the information presented in this notice.

B. Proposal

EPA proposes to allow a baseline adjustment only for the deterioration of crude sulfur levels as it is unaware of other inherent crude properties which strongly and directly affect baseline fuel parameters. Comments are requested on other inherent crude properties which have significantly deteriorated since 1990 and which directly and significantly affect the values of any of the fuel parameters for which an individual baseline value must be determined. Comments concerning crude quality changes since 1990, as well as future trends (including identifying whether crude sulfur content increases will flatten off or continue to increase), especially on a regional or PADD basis, are also requested.

As with other baseline adjustments such as work-in-progress, the proposed criteria for obtaining an adjustment are necessarily stringent so as to provide relief only in cases of extreme burden and to maintain the environmental benefits of the (anti-dumping) program. EPA does not intend to allow adjustments for all refiners who have experienced increasing crude sulfur levels in the time period since 1990 or will experience such increases in the future. Thus, the existing provisions in section 80.91 of the regulations still apply, i.e., no adjustments for crude quality or availability changes are allowed unless the proposed criteria are met.

If a refiner meets the following proposed criteria, it would be able to petition for a baseline adjustment to account for crude sulfur changes:

(1) *The refinery produces no reformulated gasoline.* While the anti-dumping requirements, in general, apply to all conventional gasoline whether or not reformulated gasoline is also produced, in these specific cases no dumping will occur due to reformulated gasoline production. If a refinery granted such an adjustment subsequently produces reformulated gasoline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and in all subsequent years.

(2) *A refiner has an unadjusted baseline value of not more than 50 ppm.* EPA believes that requiring a threshold value of 50 ppm is appropriate because higher baseline values would indicate that the refiner's 1990 crude slate was not extremely low in sulfur. Additionally, a refiner with a higher baseline sulfur value should have sufficient leeway, e.g., types of crudes utilized and processing flexibility, to comply with its individual baseline. EPA requests comments on the appropriateness of requiring a threshold value, and on the suitability of 50 ppm or another value as a threshold value.

(3) *The affected refinery of a multi-refinery refiner may not be aggregated with the refiner's other refineries for compliance purposes.* Since both the unadjusted and adjusted baselines must be determined, if a refinery granted such an adjustment subsequently is included in an aggregate baseline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and in all subsequent years.

(4) *The installation of the refinery units necessary to process higher sulfur crudes to comply with the refinery's actual (i.e., unadjusted) baseline would cost $10 million or be at least 10 percent of the depreciated book value of the refinery as of January 1, 1995.* The purpose of this provision would be to ensure that an adjustment be limited to cases of extreme burden or economic hardship and de minimis environmental impact, and is the same economic burden requirement which must be met

[4] Petition for Adjustment to Anti-Dumping Baseline, Atlas Processing Company, Penzoil Products Company, Attachments B and C, March 29, 1994.

[5] E.J. Swain, ''U.S. crude slate continues to get heavier, higher in sulfur,'' *Oil & Gas Journal*, p. 37, January 9, 1995.

[6] Oil & Gas Journal, January 9, 1995.

by a refiner seeking a work-in-progress baseline adjustment.[7] EPA requests comments on this criterion and whether the specified values are adequate given the type of unit (e.g., hydrotreater) that a refiner would have to install in order to comply. EPA also requests comments on (1) the economic burden, if any, of producing and selling gasoline blendstocks in lieu of finished gasoline, and (2) the economic burden of complying with an unadjusted baseline under the circumstances described above by modifying refinery operations in ways other than installing major refinery units. For instance, the principal source of sulfur in gasoline is the catalytic gasoline blendstock. An option for lowering sulfur would be to lower the catalytic gasoline end point and shift the back (heavy, high boiling) portion of the gasoline into the distillate stream. While this would move barrels of crude oil into distillates and out of gasoline and shift the refinery product mix[8], it would lower the sulfur content of the catalytic gasoline. EPA also requests information on the effect of crude sulfur levels on gasoline sulfur.

(5) *The refiner has access to a geographically-limited crude supply.* The refiner must show that it could not reasonably or economically obtain crude oil from an alternative source that would permit it to produce conventional gasoline which would comply with its unadjusted baseline. EPA requests comment on this proposed provision and on which criteria that should be used to evaluate ''reasonably and economically available''.

(6) *The refiner has experienced an average crude sulfur increase of at least 25 percent since 1990.* EPA proposes that the highest annual average crude sulfur slate utilized during the period 1991–1994, inclusive, be used for comparison to 1990 to determine if the ''25 percent'' criterion is met. Comments are requested concerning the level of difference between 1990 and post-1990 crude sulfur contents that should exist in order to obtain an adjustment, and whether 1991–1994 is an appropriate comparison period or whether some other comparison should be established. Comments are also requested as to whether it is appropriate, and feasible, to distinguish crudes used solely for gasoline production from crudes used to produce other refinery products. If such distinction is possible, EPA believes it would be appropriate to base all calculations pertaining to this proposed baseline adjustment only on those volumes of each crude used to produce gasoline.

(7) *Gasoline sulfur changes are directly and solely attributable to the crude sulfur change, and not due to alterations in refinery operation nor choice of products.*

(8) *A baseline adjustment is available to both single-refinery and multi-refinery refiners.*

(9) *The eligibility of a refinery of a multi-refinery refiner for this proposed baseline adjustment is not dependent on the RFG production of the other refineries of the refiner.*

EPA is proposing several options for determining the adjusted baseline sulfur value if a refiner meets the above criteria and is approved for a baseline adjustment. EPA will finalize only one option; certain portions of the other proposed options could also be incorporated. For this reason, EPA requests comments on all aspects of the options proposed. For brevity, only OPTION 1 is included in the proposed regulatory language. EPA proposes that, regardless of which option is finalized, the adjusted baseline sulfur value may not exceed 338 ppm, the annual average value specified in 40 CFR 80.91(c)(5)(iii). See the support document for this rule for more discussion related to the various options presented (''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.)

Option 1: EPA proposes that the adjusted baseline sulfur value be related to the ratio of the sulfur value of the highest sulfur crude utilized in 1994 to the average sulfur content of the crude slate utilized in 1990. Under this option, if a refiner utilized two crudes in its gasoline production in 1994 with sulfur levels of 1000 ppm and 2100 ppm, the higher sulfur crude would be utilized in the determination of the adjusted baseline sulfur value. If, for example, the 1990 average crude sulfur content was 500 ppm (resulting, say, in a 20 ppm baseline), the adjusted baseline sulfur value would be 84 ppm 20 ppm $\times$(2100/500). EPA requests comments on this proposed option, including whether the highest sulfur crude from 1991–1994 should be used rather than just considering 1994.

Option 2: EPA proposes that the adjusted baseline sulfur value be related to the ratio of the highest average sulfur content of the crude slate utilized in 1991, 1992, 1993 or 1994 to the average sulfur content of the crude slate utilized in 1990. Using the 1990 baseline and crude sulfur values from Option 1, and average crude sulfur contents of 1000, 1100, 1400, and 1300 ppm for years 1991, 1992, 1993 and 1994, respectively, the adjusted baseline sulfur value would be 56 ppm, i.e., 20 ppm $\times$[1400/500]. EPA requests comments on this proposed methodology and solicits alternative methods of determining the adjusted baseline sulfur value.

Option 3: EPA proposes that an adjusted baseline sulfur value be determined for each year through 1999. Beginning January 1, 2000, the adjusted baseline sulfur value would be the same as it was in 1999. EPA proposes that the annual adjusted value be determined over the four years prior to the year before the new value takes effect, except for 1995 and 1996 which would be determined as specified in OPTION 1 above (and for which the adjusted baseline sulfur value would be the same). EPA also proposes that if less than a 25 percent difference occurs between the 1990 average crude sulfur level and the average crude sulfur level over a four-year time period, the refiner would receive no additional adjustments, and its most recent adjusted baseline sulfur value would become its permanent baseline sulfur value at that point. For example, the standard for 1997 would be based on the ratio of the average sulfur content of the crude slate utilized in 1992, 1993, 1994 or 1995 to the average sulfur content of the crude slate utilized in 1990. EPA proposes that the resulting adjusted baseline sulfur value be submitted to the Agency for evaluation and approval by June 1 of the year preceding the year for which it would be the standard. In the example given, the adjusted baseline value (and all supporting information) would have to be submitted by June 1, 1996.

EPA requests comments on a refiner's ability, given the other requirements of this proposed option and the proposed requirements used to qualify for an adjusted baseline sulfur value, to choose to process higher sulfur crudes.

Option 4: EPA proposes requirements similar to those presented for option 3 except that adjustments will only be allowed through 1997, i.e., the duration of the simple model years. Beginning in 1998, the adjusted baseline sulfur value would be the value in 1997.

Option 5: EPA proposes that the adjusted baseline sulfur value be the unadjusted baseline sulfur value plus 50 ppm. EPA requests comments on this proposed option, including whether 50 ppm is an appropriate value. EPA specifically seeks comment on the appropriateness of using 100 ppm or 150 ppm instead of 50 ppm.

These five proposed options all result in an adjusted baseline sulfur value

[7] 40 CFR 80.91(e)(5)(v).

[8] Because sulfur content of petroleum products increases with the boiling range of the material.

which is known prior to the period of production, thus treating the affected refiner like all other refiners. If one of OPTIONS 1–5 becomes final, a refiner might have to modify refinery operations in the future to accommodate increasing crude sulfur levels. However, future refinery operation modifications will likely be required of most refiners, without benefit of a baseline adjustment, in order to deal with the increasing crude sulfur levels. The purpose of this proposed baseline adjustment is to provide relief in certain cases where increasing crude sulfur levels could make compliance with the anti-dumping requirements extremely difficult. However, baseline adjustments are intended to reduce, not eliminate, the burden associated with complying with the anti-dumping regulations in situations where the burden is onerous and the environmental impact is minimal. If the burden were totally eliminated, then this criteria would no longer be met.

EPA received a suggested option proposing that a refiner would be able to produce conventional gasoline which does not meet, on average, the requirements of its individual baseline if it could show that deviation from its baseline was directly and solely attributable to crude sulfur change, and not due to alterations in refinery operation or choice of products. The suggested option also contained other requirements a refiner would have to meet which are essentially those proposed today by EPA in order to qualify for this proposed baseline adjustment.

EPA has many concerns about the concept and detail of this suggested option. This option basically exempts a qualifying refiner from complying with its anti-dumping compliance baseline if the refiner can show, at the end of the compliance period, that deviation from its baseline was directly and solely attributable to crude sulfur change. Thus, unlike all other refiners, a qualifying refiner would have no clearly defined standard prior to year of production. Additionally, if EPA was not satisfied that deviation from its baseline was directly and solely attributable to crude sulfur change, the refiner would have to determine compliance relative to its unadjusted baseline and would likely be out of compliance.

EPA requests comments as to whether, in order to show that increased gasoline sulfur is due solely to the increased crude sulfur, no changes in refinery configuration or refinery operation would be allowed. Or is it possible to ''back out'' the effects of such changes? If it is not possible to ''back out'' the effects of refinery changes to determine just the effect of crude sulfur on gasoline sulfur, then a refiner which would use this option could potentially not make any refinery changes in order to qualify for a baseline adjustment. Alternatively, if refinery changes were made under this suggested option, it would seem that the refiner's compliance baseline would revert back to its unadjusted baseline. EPA requests comments on this suggested option, particularly addressing its enforceability and competitive concerns.

Since today's proposed baseline adjustment focuses on sulfur (unless commenters suggest other baseline fuel parameters which are directly affected by crude oil quality), if the suggested approach (which is not part of OPTIONS 1 through 5) were adopted, EPA believes it would be more appropriate, under the suggested option, that a refiner be exempt only from complying with its anti-dumping compliance baseline for sulfur under the simple model and NO_X emissions under the complex model, to the extent that increased sulfur affects NO_X emissions. The refiner would have to comply with NO_X emissions once the effect of increased sulfur is factored out. Basically, the refiner would (1) determine its baseline NO_X emissions after substituting its annual average sulfur for the compliance period for its unadjusted baseline sulfur value, (2) determine its annual average NO_X emissions for the compliance period, and (3) compare the values in (1) and (2) for the purposes of determining compliance. EPA does not believe that a refiner should be exempt from its other anti-dumping compliance baselines, i.e., all other simple model requirements as well as exhaust benzene and exhaust toxics emissions under the complex model since those emissions are only minimally affected by sulfur. Comments are requested on these details of this suggested option.

EPA expects minimal negative environmental affects from allowing baseline adjustments under the criteria proposed today due to the small number of refineries expected to qualify for a baseline adjustment and the relatively small total production volume of all such refineries.

IV. Baseline Adjustment for Very Low Baseline Sulfur and Olefins

A. Introduction

In addition to compliance difficulties resulting from crude quality changes, the Agency also recognizes that very clean individual baselines can make compliance extremely difficult or impossible due to limited maneuverability about the clean baseline and limited flexibility with regard to annual averaging when certain baseline fuel parameter values are very low. During the review and approval of individual baselines, EPA was informed that extremely low baseline sulfur and olefin values (e.g., below 30 ppm sulfur and 1.0 volume percent olefins) could force a refiner to cease gasoline production. This was not EPA's intention when it developed the reformulated gasoline and anti-dumping requirements. Refiners with very clean baselines will presumably produce the least polluting gasoline of all refiners. (For more discussion on these proposed baseline adjustment provisions, see the support document, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.)

EPA believes it has the authority to provide limited relief in the form of a baseline adjustment in those few cases where the regulatory burden is extremely onerous and where requiring compliance would yield little or no environmental gain. EPA is proposing such a baseline adjustment in cases where both the baseline sulfur and baseline olefins values are very low and certain other conditions are met. EPA requests comments on the discussion and proposed criteria presented today.

B. Proposal

EPA proposes several criteria a refiner must meet in order to petition for a baseline adjustment to account for restricted maneuverability due to very low baseline sulfur and olefin values. EPA does not necessarily intend to allow adjustments for all refiners who foresee restricted maneuverability due to a clean individual baseline. EPA requests comments on the appropriate level of stringency to apply to the minimum criteria that must be met in order to receive an adjustment.

(1) *EPA proposes to allow an adjustment for individual baselines when the sulfur and olefin contents are extremely low, defined as values below 30 ppm sulfur and 1.0 vol% olefins.* These values are identical to the minimum levels given in the negligible quantity provision (see 40 CFR 80.91(d)(3)). Comments are requested on other fuel components which, when they are found to be extremely low in an individual baseline, can restrict the refiner's compliance maneuverability to the point of severe economic burden.

(2) *EPA proposes that a refiner seeking a baseline adjustment for low*

baseline levels of sulfur and olefins must show that the installation of the refinery units necessary to comply with its actual (i.e., unadjusted) baseline would cost $10 million or be at least 10 percent of the depreciated book value of the refinery as of January 1, 1995. EPA requests comments on this criterion and specifically whether such amounts are adequate given the type of unit (e.g., hydrotreater) that a refiner would have to install in order to comply. EPA also requests comments on (1) the economic burden, if any, of producing and selling gasoline blendstocks in lieu of finished gasoline, and (2) the economic burden of complying with an unadjusted baseline under the circumstances described above by modifying refinery operations in ways other than installing major refinery units.

(3) *EPA proposes that such an adjustment be available to both single-refinery and multi-refinery refiners and that the affected refinery of a multi-refinery refiner may not be aggregated with the refiner's other refineries for compliance purposes.*

(4) *If a refiner meets the above criteria and is approved for a baseline adjustment, EPA proposes that the baseline adjustment simply amount to setting the annual average sulfur and olefin values to 30 ppm and 1.0 volume percent, respectively.* If at any time the refinery's baseline is aggregated with another refiner's baseline for compliance purposes, the applicable individual baseline would revert to the unadjusted baseline. The summer and winter values would each also be set to 30 ppm for sulfur and 1.0 volume percent for olefins. Comments are requested on the methodology of setting the adjusted baseline sulfur and olefin values. An alternative approach to setting seasonal values for sulfur and olefins would be to maintain the actual (i.e., unadjusted) proportion of summer to winter sulfur and olefin values.

As with the baseline adjustment proposals described earlier, EPA expects minimal negative environmental effects from allowing baseline adjustments under the criteria proposed in this section due to the small number of refiners which might qualify for such an adjustment and the small amount of additional gasoline that would be affected by the proposed baseline adjustments.

V. Stay and Reconsideration of the Regulations

A. Authority for Stay and Reconsideration

The administrative stay (which is published elsewhere in this issue of the **Federal Register**) of the provisions concerning JP–4 and certain changes in sweet crude oil are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for three months if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule.

The grounds for an objection to the criteria for an individual baseline adjustment based on production of JP–4 jet fuel arose after the end of the public comment period, and before the time allowed for seeking judicial review. Basically, new information has been submitted to EPA concerning the number of parties potentially affected by the criteria adopted, and the ability of parties with more than one refinery to aggregate baselines and thereby avoid the adverse impacts of a failure to obtain an individual baseline adjustment. This information became available to EPA after the final criteria were adopted by EPA, and are directly relevant to the basic rationale for those criteria. This information was not available before that time, because it relates to the impact of the final criteria adopted by EPA as compared to the proposed criteria.

Similarly, the grounds for an objection to a lack of a baseline adjustment based on changes in the sulfur level of available crude oil arose after expiration of the period for public comment. It appears that the sulfur levels of crude have changed significantly since 1990 for certain areas of the country. Until EPA issued its final rules in December 1993, and more information was obtained on the sulfur levels of crude that would be available for use in 1995 and later, refiners that have historically relied on the availability of low sulfur crude could not identify for EPA the full impact of the final conventional gasoline requirements on their ability to continue marketing conventional gasoline.

Based on the above, and the Agency's interest in reconsidering these provisions through rulemaking, EPA is issuing a three-month administrative stay (which is published elsewhere in this issue of the **Federal Register**) of the effectiveness of the following rules, with certain conditions keyed to the requirements proposed today. The stay is structured such that it will only affect those persons who meet the requirements proposed today.

First, 40 CFR 80.91(e)(7)(i)(A) through (C) is being stayed for three months for all persons that meet the requirements proposed today regarding § 80.91(e)(7). In effect, persons who meet the proposed requirements would be able to receive a baseline adjustment under § 80.91(e)(7) if they also met the requirements of § 80.91(e)(7)(ii) and (iii). If a person does meet these conditions, then the Agency may approve a baseline adjustment under the terms of this stay, or under the terms of any stay issued through rulemaking.

Second, 40 CFR 80.101(b)(1)(ii) is being stayed for three months for all persons that meet the requirements proposed today as a new § 80.91(e)(8), and that comply with an annual average sulfur level of 125% of the compliance baseline that would apply under the new § 80.91(e)(8) proposed today. (See the Option 1 discussion in Section III.B. above.) In effect, the stay would only affect those persons who meet the proposed requirements for a baseline adjustment and who also meet the annual average sulfur level for conventional gasoline that would apply if they received a baseline adjustment under this proposal.

EPA is also proposing to stay these provisions by rule, pending completion of this rulemaking. If EPA does not finalize the changes proposed today, then EPA would revise any such baseline established during the stay to conform with the final action taken by the Agency. An appropriate time period would be allowed before a revised baseline would become effective. The terms of the 3 month administrative stay and any stay issued through rulemaking would apply to all gasoline produced from January 1, 1995 through to the end of any such stay.

B. Proposal for a Stay Pending Rulemaking

As described earlier, EPA is issuing a three month administrative stay of certain provisions pending reconsideration by the Agency. The authority for this three month administrative stay is section 307(d)(7)(B) of the Act. Since EPA may not be able to complete its reconsideration and this rulemaking during this time period, EPA proposes to extend the stay until final action is taken on the regulatory changes proposed herein. EPA requests public comment on this extension of the stay during reconsideration and rulemaking.

VI. Confidentiality of Information Submitted for Individual Baselines

A. Introduction

The final regulations issued by EPA in December 1993 determined that certain information submitted by refiners or

importers would not be considered confidential. In addition, EPA stated that it would publish a portion of this information. This information concerns the individual baseline assigned to refiners and importers for use in the conventional and reformulated gasoline program, as well as information submitted by these parties in their petition for a baseline. See 40 CFR 80.93(b)(6).

Persons affected by this provision sought judicial review, objecting to the release of this information on grounds of business confidentiality. *American Petroleum Institute* v. *U.S. Environmental Protection Agency,* No. 94–1138 (D.C. Cir.), and consolidated case *Texaco, Inc. and Star Enterprises* v. *U.S. Environmental Protection Agency,* No. 94–1143 (D.C. Cir.). Based on discussions with these parties, EPA has decided to reconsider this provision and is proposing to revise it. Under the proposal, only a portion of this information would be published, the exhaust emissions values assigned as an individual baseline. Issues concerning claims of business confidentiality for the remaining information would be resolved under EPA's regulations on ''Confidentiality of Business Information,'' 40 CFR Part 2 subpart B.

B. Background

The conventional gasoline regulations are based in large part on the use of individual baselines for refiners and importers, while their use in the reformulated gasoline program is limited to the first three years of the program. The individual baseline reflects the average quality of a refiner's or importer's gasoline for the year 1990. The standards for conventional gasoline are generally expressed in terms of a refiner's or importer's individual baseline, so that compliance with the standards is measured by comparing current production of conventional gasoline against the individual baseline, on an annual basis. For example, under the simple model for conventional gasoline, a refiner's annual average for exhaust benzene emissions may not exceed their compliance baseline, and the annual averages for sulfur, olefins and T–90 may not exceed 125 percent of their compliance baseline value for these parameters. 40 CFR 80.101(b)(1). In most cases, the compliance baseline is the same as the individual baseline. 40 CFR 80.101(f). For reformulated gasoline, certain standards applicable during 1995 through 1997 are also expressed in terms of a refiner's or importer's individual baseline. 40 CFR 80.41(H)(2).

EPA assigns an individual baseline after reviewing the individual baseline values for various fuel parameters, the motor vehicle exhaust emissions levels calculated from such parameters, individual 1990 baseline gasoline volumes, and the blendstock to gasoline ratios for 1990 through 1993, all submitted by the refiner or importer. This information would be deemed not confidential under EPA's current regulations. In addition, under the current regulations, EPA would publish the individual emissions standard for each refiner or importer, as well as the sulfur, olefins and T–90 standard noted above. 40 CFR 80.93(b)(6).

C. Proposal

EPA remains concerned that the emissions standards for refiners and importers should continue to be public. Therefore, EPA is proposing to publish the individual baseline values for exhaust emissions that comprise a refiner or importer's standards. EPA is proposing that the standards for sulfur, olefins and T–90 applicable during 1995 through 1997 not be published, and that the reporting requirements be revised so a refiner or importer would have to note whether and how much their annual average for these values exceeded their individual baseline value. This latter information would be considered non-confidential. This would effectively provide the same benefits as publishing the baseline values for these three parameters as it would clearly show whether a refiner or importer violated the standards applicable for these fuel parameters. In addition, requests for release of other baseline information would be governed by the regulations on the confidentiality of business information at 40 CFR Part 2 subpart B. EPA is proposing this change so that the factual and legal issues concerning disclosure of this information may be resolved on a case-by-case basis under EPA's CBI rules.

For a discussion of industry concerns regarding this issue and EPA's rationale behind its proposal, see the support document for this rule, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.

VII. Environmental and Economic Impacts

The environmental impacts of today's proposal are minimal, as discussed above. Additionally, economic impacts are generally beneficial to affected refiners due to the additional flexibility proposed in today's notice. Minimal anti-competitive effects are expected. The environmental and economic impacts of the reformulated gasoline program are described in the Regulatory Impact Analysis supporting the December 1993 rule, which is available in Public Docket A–92–12 located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

VIII. Public Participation

EPA desires full public participation in arriving at its final decisions and solicits comments on all aspects of this proposal. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed, by [30 days after publication] to the EPA Air Docket, Docket A–95–03 (See **ADDRESSES**).

Any proprietary information being submitted for the Agency's consideration should be markedly distinguished from other submittal information and clearly labelled ''Confidential Business Information.'' Proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that it is not inadvertently placed in the docket. Information thus labeled and directed shall be covered by a claim of confidentiality and will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

IX. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of their regulations and to identify any significant adverse impacts of those regulations 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. In fact, today's proposals are designed to promote successful implementation of the anti-dumping requirements of the reformulated gasoline program for all affected parties and to minimize any adverse competitive impacts by virtue of the proposal to report individual baseline emissions and not fuel parameters.

X. Administrative Designation

Pursuant to Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of 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 entitlement, 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, it has been determined that this notice of proposed rulemaking is not a ''significant regulatory action''.

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

XII. Unfunded Mandates Act

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

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

XIII. Statutory Authority

The statutory authority for the actions proposed today is granted to EPA by Sections 114, 211 (c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545 (c) and (k), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 25, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.75 is amended by removing ''and'' at the end of paragraph (b)(2)(ii)(F), by adding a semi-colon in place of the period at the end of paragraph (b)(2)(ii)(G), and adding paragraphs (b)(2)(ii) (H), (I), and (J) to read as follows:

§ 80.75 Reporting requirements.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(H) The difference between the applicable sulfur content standard under § 80.41(h)(2)(i) in parts per million and the average sulfur content in parts per million, indicating whether the average is greater or lesser than the applicable standard;

(I) The difference between the applicable olefin content standard under § 80.41(h)(2)(i) in volume percent and the average olefin content in volume percent, indicating whether the average is greater or lesser than the applicable standard; and

(J) The difference between the applicable T90 distillation point standard under § 80.41(h)(2)(i) in degrees Fahrenheit and the average T90 distillation point in degrees Fahrenheit, indicating whether the average is greater or lesser than the applicable standard.

* * * * *

3. Section 80.91 is amended by revising paragraph (e)(7)(i) and adding paragraphs (e)(8) and (e)(9) to read as follows:

§ 80.91 Individual baseline determination.

* * * * *

(e) * * *

(7) * * *

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery produced JP–4 jet fuel in 1990 and all of the following requirements are also met:

(A) Refinery type.

(*1*) The refinery is the only refinery of a refiner such that it cannot form an aggregate baseline with another refinery (per paragraph (f) of this section); or

(*2*) The refinery is one refinery of a multi-refinery refiner for which all of its refineries produced JP–4 in 1990 and each of the refineries also meets the requirements specified in paragraphs (e)(7)(i) (B) and (C) of this section; or

(*3*) The refinery is one refinery of a multi-refinery refiner for which not all of the refiner's refineries produced JP–4 in 1990.

(B) No refinery of the refiner produces reformulated gasoline. If any refinery of the refiner produces reformulated gasoline at any time in a calendar year, the compliance baseline of all its refineries receiving a baseline adjustment per this paragraph (e)(7) shall revert to each refinery's unadjusted baseline for that year and all subsequent years.

(C) 1990 JP–4 to gasoline ratio.

(*1*) For a refiner per paragraph (e)(7)(i)(A)(*1*) of this section, the ratio of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(*2*) For a refiner per paragraph (e)(7)(i)(A)(*2*) of this section, the ratio of each of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(*3*) For a refiner per paragraph (e)(7)(i)(A)(*3*) of this section, the ratio of the refiner's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15, when determined across all of its refineries.

* * * * *

(8) Baseline adjustments due to increasing crude sulfur content.

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery meets all of the following requirements:

(A) The refinery does not produce reformulated gasoline. If the refinery

produces reformulated gasoline at any time in a calendar year, its compliance baseline shall revert to its unadjusted baseline values for that year and all subsequent years;

(B) Has an unadjusted baseline sulfur value of not more than 50 ppm;

(C) Is not aggregated with one or more other refineries per paragraph (f) of this section. If a refinery which received an adjustment per this paragraph (e)(8) subsequently is included in an aggregate baseline, its compliance baseline shall revert to its unadjusted baseline values for that year and all subsequent years;

(D) Would require refinery improvements of at least $10 million or 10 percent of the depreciated value of the refinery to comply with its unadjusted baseline;

(E) Can show that it could not reasonably or economically obtain crude oil from an alternative source that would permit it to produce conventional gasoline which would comply with its unadjusted baseline;

(F) Has experienced at least a 25% increase in the average sulfur content of the crude oil used in the production of gasoline in the refinery since 1990, calculated as follows:

$$\frac{(CSHI - CS90)}{CS90} \times 100 = CS\%CHG$$

Where:

CSHI=highest annual average crude slate per paragraph (e)(8)(ii)(B) of this section

CS90=1990 annual average crude slate sulfur per paragraph (e)(8)(ii)(A) of this section.

CS%CHG=percent change in average sulfur content of crude slate;

(G) Can show that gasoline sulfur changes are directly and solely attributable to the crude sulfur change, and not due to alterations in refinery operation nor choice of products.

(ii) The adjusted baseline sulfur value shall be calculated as follows:

(A) Determine the average sulfur content (ppm) of the crude slate utilized in the production of gasoline in the refinery in 1990;

(B) Determine the highest crude sulfur level (ppm) of the crude slate utilized in the production of gasoline in the refinery in 1994;

(C) Determine the adjusted baseline sulfur value as follows:

$$ASULF = \frac{CSHI}{CS90} \times BSULF$$

Where

ASULF=adjusted baseline sulfur value, ppm

BSULF=actual baseline sulfur value, ppm

CSHI=highest crude sulfur (ppm) per paragraph (e)(8)(ii)(B) of this section

CS90=1990 annual average crude slate sulfur per paragraph (e)(8)(ii)(A) of this section

(iii) In no case can the adjusted baseline sulfur value determined per paragraph (e)(8)(ii) of this section exceed the sulfur value specified in paragraph (c)(5)(iii) of this section.

(iv) All adjustments made pursuant to this paragraph (e)(8) must be accompanied by:

(A) Unadjusted and adjusted fuel parameters and emissions; and

(B) A narrative describing the situation, the types of calculations, and the reasoning supporting the types of calculations done to determine the adjusted values.

(9) Baseline adjustment for low sulfur and olefins.

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery meets all of the following requirements:

(A) The unadjusted annual average baseline sulfur value is less than 30 ppm;

(B) The unadjusted annual average baseline olefin value is less than 1.0 vol%;

(C) Would require refinery improvements of at least $10 million or 10 percent of the depreciated value of the refinery to comply with its unadjusted baseline.

(ii) If a refinery is aggregated with one or more other refineries per paragraph (f) of this section, then no adjustment per this paragraph (e)(9) shall be allowed, and the unadjusted baseline shall be used in the aggregated baseline.

(iii) (A) The adjusted baseline shall have an annual average sulfur value of 30 ppm, and an annual average olefin value of 1.0 vol%.

(B) The adjusted baseline shall have a summer sulfur value of 30 ppm, and a summer olefin value of 1.0 vol%.

(C) The adjusted baseline shall have a winter sulfur value of 30 ppm, and a winter olefin value of 1.0 vol%.

* * * * *

4. Section 80.93 is amended by revising paragraph (b)(6) to read as follows:

§ 80.93 Individual baseline submission and approval.

* * * * *

(b) * * *

(6) Confidential business information.

(i) Upon approval of an individual baseline, EPA will publish the individual annualized baseline exhaust emissions, on an annual average basis, specified in paragraph (b)(5)(ii) of this section. Such individual baseline exhaust emissions shall not be considered confidential. In addition, the reporting information required under § 80.75(b)(2)(ii) (H), (I) and (J), and § 80.105(a)(4) (ii), (iii) and (iv) shall not be considered confidential.

(ii) Information in the baseline submission which the submitter desires to be considered confidential business information (per 40 CFR part 2, subpart B) must be clearly identified. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the submitter pursuant to the provisions of 40 CFR part 2, subpart B.

* * * * *

5. Section 80.105 is amended by redesignating paragraph (a)(4) as paragraph (a)(4)(i) and adding paragraphs (a)(4) (ii), (iii), and (iv) to read as follows:

§ 80.105 Reporting requirements.

(a) * * *

(4)(i) * * *

(ii) If using the simple model, the difference between the applicable sulfur content standard under § 80.101(b)(1)(ii) in parts per million and the average sulfur content in parts per million, indicating whether the average is greater or lesser than the applicable standard;

(iii) If using the simple model, the difference between the applicable olefin content standard under § 80.101(b)(1)(iii) in volume percent and the average olefin content in volume percent, indicating whether the average is greater or lesser than the applicable standard; and

(iv) If using the simple model, the difference between the applicable T90 distillation point standard under § 80.101(b)(1)(iv) in degrees Fahrenheit and the average T90 distillation point in degrees Fahrenheit, indicating whether the average is greater or lesser than the applicable standard.

* * * * *

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federal register

Friday
August 4, 1995

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Modification of the Salt Lake City (SLC) Class B Airspace Area, Salt Lake City, UT; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AWA–11]

RIN 2120–AF56

Proposed Modification of the Salt Lake City (SLC) Class B Airspace Area, Salt Lake City, Utah

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the Salt Lake City (SLC) Class B airspace area, Salt Lake City, Utah. This proposal would maintain the ceiling of the SLC Class B airspace area at 10,000 feet mean sea level (MSL); subdivide and redefine existing subareas by altering their floors and boundaries except for Area B; and create additional areas E, F, G, H, I, J, K, L, and M. This proposal would improve the flow of aviation traffic and enhance safety in the Salt Lake City area, while accommodating the concerns of the airspace users.

DATES: Comments must be received on or before September 5, 1995.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Airspace Docket No. 93–AWA–11, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: nprmcmts@mail.hq.faa.gov.

The official docket may be examined in the Rules Docket, Office of Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 93–AWA–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

Any persons may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Related Rulemaking Actions

On May 21, 1970, the FAA published Amendment 91–78 to part 91 of the Federal Aviation Regulations (35 FR 7782) which provided for the establishment of Terminal Control Areas (TCA's).

On June 21, 1988, the FAA published a final rule that requires aircraft to have Mode C equipment when operating within 30 nautical miles of any designated TCA primary airport from the surface up to 10,000 feet MSL, except aircraft not originally certificated with an engine-driven electrical system, or which had not subsequently been certified with such a system installed (53 FR 23356).

On October 14, 1988, the FAA published a final rule that revised the classification and pilot/equipment requirements for conducting operations in a TCA (53 FR 40318). Specifically, the rule: (a) Established a single-class TCA; (b) required the pilot-in-command of a civil aircraft operating within a TCA to hold at least a private pilot certificate, except for a student pilot who has received certain documented training; and (c) eliminated the helicopter exception from the minimum navigational equipment requirements.

On December 17, 1991, the FAA published a final rule on airspace reclassification (56 FR 65655). This airspace reclassification, which became effective September 16, 1993, discontinued the use of the term ''Terminal Control Area'' (TCA) and replaced it with the designation ''Class B airspace.'' This change in terminology is reflected in this proposed rule.

Background

The Class B airspace (formerly TCA) program was developed to reduce the midair collision potential in the congested airspace surrounding airports with high density air traffic by providing an area in which all aircraft will be subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier, military or another GA aircraft. The basic causal factor common to these conflicts was the mix of uncontrolled aircraft operating under VFR and controlled aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service; this minimizes the mix of controlled and uncontrolled aircraft. To date, the FAA has established a total of 29 Class B airspace areas; the SLC Class

B airspace area was established on November 16, 1989 (54 FR 43786). The FAA is proposing to take action to modify or implement the application of these proven control techniques to more airports to provide greater protection of air traffic in the airspace regions most commonly used by passenger-carrying aircraft.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in Paragraph 3000 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 B airspace area listed in this document would be published subsequently in the Order.

The standard configuration of a Class B airspace area is three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles, respectively. The standard vertical limits of the Class B airspace area normally should not exceed 12,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate to containment of operations in the outer areas. Variations of these criteria may be authorized contingent upon terrain, adjacent regulatory airspace, and factors unique to the terminal area.

Pre-NPRM Public Input

As announced in the **Federal Register** on September 2, 1992, 57 FR 40202, a pre-NPRM airspace meeting was held on October 28, 1992, in the Salt Lake City area to provide local interested airspace users an opportunity to present input on the design of the proposed modification of the SLC Class B airspace area. Comments were received from local government agencies, private pilots, user groups, and local airport authorities. Pilot groups were concerned with three primary aviation aspects of the proposal: flight congestion, flights over water (Great Salt Lake), and flights in close proximity to nonparticipating aircraft (hang gliders). All comments were considered in the formulation of this proposed modification, and recommendations were incorporated, in part, in this proposed modification.

Both the verbal and written comments along with the FAA's findings are summarized as follows:

1. One commenter suggested deleting a portion of the 9,000 to 10,000 foot MSL shelf of the Class B airspace area east of Salt Lake City International Airport, from due east of Skypark Airport south, to 3 miles south of Interstate 80 (I–80), from approximately lat. 40°53′00″ N., long. 111°53′30″ W., due east to long. 111°45′00″ W., then due south to lat. 40°42′30″ N., then due west to long. 111°54′00″ W., then north along the present Class B airspace area boundary to the point of origin. The FAA determined that the Salt Lake City Terminal Radar Approach Control (TRACON) does not utilize the middle portion of that 9,000 to 10,000 foot MSL shelf to contain slow climbing eastbound commercial aircraft and deleting that area would permit easier and safer access to both the Salt Lake Valley and airports to the east of the Wasatch Range by VFR aircraft.

2. Several commenters suggested raising the base altitude of the Class B airspace area from the surface to 7,600 feet MSL west of Farmington from Interstate Highway 15 (I–15) to the power line along the shore of Farmington Bay. These commenters believe this would permit VFR traffic to transit through a wider corridor and greatly lessen the chance of a midair collision. This proposal would retain the present eastern boundary of the Class B airspace area but would raise the base altitude to 7,600 feet MSL east of the power line and would require subdividing this sector along the power line from its intersection with the Salt Lake City International Instrument Landing System/Distance Measuring Equipment (I–BNT) 13-mile arc southward along the power line to the Skypark Airport ''notch,'' (hereafter referred to as exclusion area) then northeastward along the exclusion area to I–15, then north along I–15 to the I–BNT 13-mile arc, then along the arc to the point of origin. The suggestion to raise the base altitude to 7,600 feet was not adopted, because the FAA is altering the exclusion area in the vicinity of the Skypark Airport by raising the base altitude from 5,300 feet to 7,000 feet MSL and extending the boundary to the north and west. This would provide more airspace for VFR traffic transiting north and south, thus further reducing the potential for midair collisions.

3. Several commenters suggested raising the altitude of Area C of the Class B airspace in the vicinity of Riverton from 6,000 to 7,000 feet MSL, subdividing this area along 12600 Street south, and raising the Class B airspace Area C south of 12600 Street south to 7,000 feet MSL. It was also recommended that the floor of the Class B airspace Area D in the southwest area be raised from 7,000 to 8,000 feet MSL and this area subdivided from the intersection of the Salt Lake City 167° radial and 12600 Street south due west along long. 112°05′00′ W., then due north to the I–BNT 11-mile arc, then southeast along the arc to long. 112°09′00″ W., to the present boundary of the Area C then due south to lat. 40°27′30″ N., south to the Class B airspace present boundary, then north along the Salt Lake City 167° radial to the Class B airspace boundary to the point of origin. These suggested altitude and subdivision changes are adopted. The FAA is proposing to subdivide Area C, forming Area D with a base altitude of 6,000 feet MSL and Area F with a base altitude of 7,000 feet MSL.

4. Several commenters recommended that the floor of Area C be raised from 6,000 to 7,000 feet MSL in the area south and west of Magna to the Garfield Stacks to eliminate possible compression caused by VFR traffic transiting in this area along the shore line. The commenters claim that most aircraft do not have flotation equipment to fly off shore over the Great Salt Lake thus making this area congested with opposite direction traffic. The FAA is proposing to subdivide this area and to raise the base altitude from 6,000 to 6,500 feet MSL. This would allow more vertical separation with recommended altitudes and transition routes that are now being used in designated areas within the SLC Class B airspace area. This would greatly assist with VFR pilots who normally fly the coastline of the Great Salt Lake because the aircraft may not be equipped with necessary flotation equipment to fly over the Great Salt Lake. This not only would enhance safety within this congested area, but would also relieve any potential traffic compression around the Tooele Valley Airport.

5. One commenter suggested raising the altitude one mile east of the Antelope Island in Area A, from the surface to 6,000 feet MSL, thus helping to relieve any compression of VFR traffic off shore along the main coastline. The FAA is proposing to raise the base altitude of Area A from the surface to 6,000 feet MSL. Area A would become a portion of Area K. This would provide that portion of airspace along the shoreline to allow VFR traffic to traverse Antelope Island and remain over land for most of this route. This is particularly important for single-engine aircraft without flotation equipment.

6. One pilot suggested that more uncontrolled airspace is required in Area C, near the Point of the Mountain, to allow aircraft below 6,000 feet MSL to clear the hang glider area. This pilot asserts that departing aircraft are frequently instructed to remain below 6,000 feet MSL east of I–15, keeping aircraft in an area of hang gliding activity.

Under this proposal, the airspace would be subdivided into two separate areas. The floor of one area, proposed

Area F, would be raised from 6,000 to 7,000 feet MSL, thus allowing for more vertical airspace for the transversing VFR aircraft traversing the constriction at Point of the Mountain. The floor of the other area, proposed Area G, would be raised from 7,000 to 8,000 feet MSL, providing more vertical airspace for traversing VFR aircraft in this mountainous area. Additionally, this change would greatly enhance the utility of area for flight instruction and other users.

7. Several commenters suggested eliminating a portion of Area E east of I–15 between 9,000 and 10,000 feet MSL because there is no need to compress VFR aircraft in this area of the Wasatch Mountains. The commenters stated that 9,000 feet MSL is too restrictive and forces traffic to fly the canyons in order to get over the Wasatch range. The commenters further stated that the minimum altitude over the mountains should be raised to 10,000 feet MSL, establishing a VFR traffic flow (such as Immigration Canyon for eastbound traffic and Parleys Canyon for westbound traffic).

The FAA determined that commercial traffic is not heavy in this area of Area E and that deleting the middle segment of Area I would permit VFR aircraft easier and safer access to Salt Lake Valley and airports to the east of the Wasatch Range.

The Proposal

The FAA proposes to amend 14 Code of Federal Regulations (CFR) parts 71 and 91 and modify the Salt Lake City (SLC), UT, Class B airspace area. The decision to pursue modifications to the existing Class B airspace area was based on aviation safety and operational efficiencies. The proposed alteration, depicted in the attached chart, considers the current Class B airspace area flight operations and terrain. Specific areas would be modified as follows:

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL beginning at a point where the 13-mile arc of the Salt Lake City International Airport Runway 17 Instrument Landing System (ILS) I–BNT ILS/DME antenna intercepts Interstate 15 (I–15), extending south on I–15 until intercepting the 4.3-mile arc from the Salt Lake City International Airport, extending south along the 4.3-mile arc from the Salt Lake City International Airport until intercepting I–15, extending south on I–15 until intercepting the 11-mile arc of the I–BNT ILS/DME antenna clockwise until intercepting the Union Pacific railroad tracks, extending southwest on the Union Pacific railroad tracks until intercepting the 13-mile arc of the I–BNT ILS/DME antenna clockwise until the point of beginning, excluding Areas C, D, K, and L described hereinafter.

This airspace is necessary to accommodate high performance traffic within the Salt Lake City International Airport and to provide for ingress/egress to secondary airports. Reducing the area to the north would provide sufficient airspace for VFR traffic transiting over the Skypark Airport area. The exclusion area to the northeast of the Salt Lake City Airport in the vicinity of the Skypark Airport would be modified by expanding the boundary west and northwest. The floor would be raised from 5,300 to 7,000 feet MSL to provide transiting VFR traffic sufficient airspace to reduce the potential for midair collisions between northbound and southbound traffic.

Area B. That airspace extending upward from 7,600 feet MSL to and including 10,000 feet MSL between the 13-mile radius and the 25-mile radius of the I–BNT ILS/DME antenna, excluding that airspace south of the Union Pacific railroad tracks and that airspace east of where the 25-mile arc intercepts the Ogden-Hinckley Airport, UT, Airspace Class D airspace area and the Ogden, Hill AFB, UT, Class D airspace area until intercepting U.S. Highway 89, extending south on U.S. Highway 89 until intercepting the 11-mile arc of the I–BNT ILS/DME antenna. This segment of airspace provides sufficient room for aircraft climbing and descending into the Salt Lake City International Airport.

Area C. That airspace extending upward from 6,500 feet to and including 10,000 feet MSL beginning at a point where the 11-mile arc of the I–BNT ILS/DME antenna intercepts the Union Pacific railroad tracks extending southwest of the Union Pacific railroad tracks until intercepting the 13-mile arc of the I–BNT ILS/DME antenna clockwise until a point at lat. 40°46′30″ N, long. 112°14′50″ W, extending east to a bend on I–80 at lat. 40°46′30″ N, long. 112°08′48″ W, then southeast to the drive-in theater north of the city of Magna at lat. 40°43′00″ N, long. 112°04′48″ W, then southeast to the water tank at lat. 40°40′00″ N, long. 112°03′33″ W, extending southeast to a point at lat. 40°39′20″ N, long. 112°02′33″ W, extending south along long. 112°02′33″ W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna then northwest on the 11-mile arc of the I–BNT ILS/DME antenna clockwise to the point of beginning.

This area would provide more transition routes for VFR operations, particularly for aircraft not equipped with the required flotation equipment to fly over the Great Salt Lake. Additionally, this area would relieve the potential for traffic congestion around the Tooele Valley Airport.

Area D. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point at lat. 40°39′20″ N, long. 112°02′33″ W, extending east to a point at lat. 40°39′20″ N, long. 111°58′13″ W, extending south along long. 111°58′13″ W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna, then counterclockwise until intercepting I–15, extending south on I–15 until intercepting a line at lat. 40°31′05″ N, extending west on lat. 40°31′05″ N, until a point at lat. 40°31′05″ N, long. 112°00′33″ W, then north along long. 112°00′33″ W, to intercept the 11-mile arc of the I–BNT ILS/DME antenna at lat. 40°35′22″ N, long. 112°00′33″ W, then clockwise on the 11-mile arc of I–BNT ILS/DME antenna to long. 112°02′33″ N, then to the point of beginning.

This area is currently a portion of Area C and would be redesignated by this proposal.

Area E. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point where the 11-mile arc of the I–BNT ILS/DME antenna intercepts a line at long. 112°09′03″ W, bounded on the west by long. 112°09′03″ W, on the south by a line at lat. 40°31′05″ N, to a point at lat. 40°31′05″ N, long. 112°00′33″ W, extending north to lat. 40°35′22″ N, long. 112°00′33″ W, then clockwise on the 11-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

This area is currently a portion of Area D and would be redesignated by this proposal.

Area F. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at lat. 40°31′05″ N intercepts I–15 extending west on lat. 40°31′05″ N, to long. 112°00′33″ W, then south on long. 112°00′33″ W, to lat. 40°27′30″ N, then east along lat. 40°27′30″ N, to I–15, then north to the point of beginning.

This area is currently a portion of Area D and would be redesignated by this proposal. Additionally, the floor of this area would be raised from 6,000 to 7,000 feet MSL to provide more airspace for the VFR aircraft transiting the area of Point of the Mountain.

Area G. That airspace extending upward form 8,000 feet MSL to and including 10,000 feet MSL beginning at the Bingham Copper Mine at lat. 40°31′05″ N, long. 112°09′03″ W, extending south to lat. 40°27′30″ N,

long. 112°09′03″ W, then east to lat. 40°27′30″ N, long. 112°00′33″ W, then north to lat. 40°31′05″ N, extending west to the point of beginning. This is a subdivision of the former Area D, Salt Lake City Class B airspace area. The base altitude was raised from 7,000 feet MSL to 8,000 feet MSL.

This area is a portion of the current Area D and would be redesignated by this proposal. Additionally, the floor of this area would be raised from 7,000 to 8,000 feet MSL to provide more airspace for the VFR aircraft transiting this mountainous area and to allow space for flight instruction activity in this area.

Area H. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at lat. 40°27′30″ N, intercepts the I–15 freeway, extending south along I–15 to lat. 40°23′30″ N, extending west along lat. 40°23′30″ N to long. 111°54′00″ W thence south along long. 111′54′00″W until intercepting the 30-mile arc of the I–BNT ILS/DME, then clockwise along the 30-mile arc until intercepting long. 112°06′00″ W, until intercepting lat. 40°23′30″ N, extending west along lat. 40°23′30″ N until long. 112°09′06″ W, then north along long. 112°09′06″ W until intercepting 40°27′30″ N, extending east to the point of beginning, excluding that airspace contained in restricted areas R–6412A and R–6412B when active.

This area is currently area F and would be redesignated as Area H under this proposal.

Area I. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at long. 111°45′03″ W intercepts Interstate 84 (I–84), extending south on long. 111°45′03″ W, until intercepting lat. 40°31′05″ N, extending west until intercepting I–15, then north along I–15 until intercepting the Salt Lake City International Airport 4.3-mile arc, extending north along the Salt Lake City International Airport 4.3-mile arc until intercepting I–15, then north along I–15 until intercepting U.S. Highway 89, extending north along U.S. Highway 89 until intercepting the Ogden, Hill AFB, UT, Class D airspace area, then north along the Ogden, Hill AFB, UT, Class D airspace area until intercepting I–84, extending east along I–84 until the point of beginning, excluding that block of airspace east of Salt Lake City International Airport between lat. 40°52′16″ N, and lat. 40°42′00″ N. This area is currently Area E and would be redesignated as Area I under this proposal.

Area J. That airspace extending upward from 7,800 feet MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME antenna intercepts the Ogden-Hinckley Airport, UT, Class D airspace area counterclockwise along the Ogden-Hinckley Airport, UT, Class D airspace area and the Ogden, Hill AFB, UT, Class D airspace area until intercepting the 25-mile arc of the I–BNT ILS/DME antenna to the point to beginning. This area currently is Area G and would be redesignated as Area J under this proposal.

Area K. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point on the 13-mile arc of the I–BNT ILS/DME antenna at lat. 40°46′30″ N., long. 111°14′50″ W., extending east to the bend on I–80 at lat. 40°46′30″ N., long. 112°08′48″ W., then north along long. 112°08′48″ W., until intercepting the 13-mile arc of the I–BNT ILS/DME antenna, then counterclockwise along the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

This area would provide more airspace for nonparticipating aircraft, particularly for aircraft not equipped with the required flotation equipment to fly over the Great Salt Lake. This would assist the VFR pilot who normally flies the coastline of the Great Salt Lake because the aircraft may not be equipped with flotation equipment to fly over the Great Salt Lake.

Area L. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL west of I–15 bounded on the south by Cudahy Lane, on the west by Redwood Road until intercepting the Utah Power Transmission lines, extending northeast along the power transmission lines until intercepting the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

This area would be expanded to maintain safety for north and southbound VFR traffic.

Area M. That airspace extending upward from 9,000 MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME intersects the I–15 freeway south of the Ogden Municipal Airport extending north along the I–15 freeway to the 30-mile arc of the I–BNT ILS/DME, thence counterclockwise along the 30-mile are to long. 112°10′00″ W, then south along long. 112°10′00″ W to the 25-mile arc of the I–BNT ILS/DME, then clockwise along the 25-mile arc to the point of beginning.

This proposal would provide additional controlled airspace for new instrument approach procedures to the new parallel instrument runway, 16 Right—34 Left at the Salt Lake City International Airport.

Regulatory Evaluation Summary

The FAA has determined that this rulemaking is not a ''significant regulatory action'' as defined by Executive Order 12866, and therefore no Regulatory Impact Analysis is required. Nevertheless, in accordance with the Department of Transportation policies and procedures, the FAA has evaluated the anticipated costs and benefits, which are summarized below. For more detailed economic information, see the full regulatory evaluation contained in the docket.

Benefit-Cost Analysis

This regulatory evaluation analyzes the potential costs and benefits of proposed modifications to the Salt Lake City International Airport, Utah, Class B airspace area. These proposed modifications would raise the floor of the Class B airspace in areas A, C, and D and reduce the lateral boundaries east of the airport in area E to enhance safe and efficient VFR traffic operations. The new floor altitudes would be raised by as much as 500 to 6,000 feet MSL in areas A, C, and D without changing the original lateral boundaries. The original areas of the Class B airspace would be subdivided and renamed as A, K, and L (from A); C, D, and F (from C); E and G (from D); H (from F); and I (from E). These modifications would provide additional airspace for VFR traffic operations. Also, an area of controlled airspace (area M) would be added to the north, and the lateral boundaries of area H would be expanded to the south with floor and ceiling altitudes of 9,000 and 10,000 feet MSL respectively. These two proposed modifications are designed to provide additional controlled airspace for new instrument flight rules (IFR) procedures to the new parallel instrument runway that is scheduled to open in the latter part of 1995. The Salt Lake City Tower/Tracon (SLC ATCT) has determined that the above modifications would not adversely impact their ability to monitor and control IFR and VFR traffic in the Class B airspace.

The NPRM would enhance aviation safety and operational efficiency by lowering the risk of midair collisions, while accommodating the legitimate concerns of system users. The proposed modifications to the Salt Lake City Class B airspace would provide VFR traffic with more operating room, aid controllers vectoring IFR traffic to and from the new parallel instrument runway, and improve the SLC ATCT's ability to separate controlled and uncontrolled aircraft near the floor and lateral boundaries of the airspace. The

FAA determined that implementing these proposed modifications would not impose any additional costs on either the agency or aircraft operators.

Cost

The FAA has determined that the implementation of the NPRM would not impose any additional cost on either the agency or aircraft operators for the reasons discussed below.

In terms of the FAA, the NPRM would not impose any additional administrative costs for personnel, facilities, or equipment. This assessment is based on the fact that the proposed modification would not increase the volume of air traffic using the SLC Class B airspace. The simultaneous contraction and expansion of the Class B airspace would not dramatically change the overall size of the airspace and would not impose additional workloads on current personnel and equipment resources. Required revisions to aeronautical charts would be accomplished during normal charting cycles. Therefore, no additional costs beyond routine operating expenses would be imposed.

Costs to Aircraft Operators

The proposed modifications should impose little if any, additional cost such as required avionics equipment, installation, or circumnavigation. Many affected GA aircraft operators are assumed to already have the types of avionic equipment (such as an operable two-way radio and VOR) required for entering a Class B airspace area. The only aircraft without Mode C transponders would be aircraft not originally certified with an engine-driven electrical system or not subsequently certified with such a system installed. These potential costs to aircraft operators without Mode C transponders have already been accounted for by the Mode C rule.

Additionally, the proposed modifications should not adversely impact aircraft operators who routinely operate under IFR, primarily large air carriers, business jets, commuters and air taxis, nor should the proposed modifications impose substantial cost to VFR users.

Benefits

The proposed modifications are expected to generate benefits primarily in the form of safety enhancements to the aviation community and the flying public. Such benefits include reduced aviation fatalities and property damages as a result of a lowered risk of midair collisions. The proposed changes would enable VFR aircraft to circumnavigate the SLC Class B airspace area operations, thereby enhancing operational efficiency.

Conclusion

In view of the negligible cost of compliance and the benefits of enhanced aviation safety and increased operational efficiency, the FAA has determined that the proposed modifications would be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if an NPRM would have ''a significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to the NPRM. The only potentially affected small entities would be unscheduled air taxis owning nine or fewer aircraft and flight training schools around the Oquirrh Mountains. The NPRM would maintain aviation safety and operational efficiency for VFR traffic while imposing negligible additional costs or requirements. Therefore, the NPRM would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The proposed rule would neither have an effect on the sale of foreign aviation products or services in the United States, nor the sale of United States products or services in foreign countries. The proposed rule would impose negligible costs on aircraft operators or aircraft manufacturers (United States or foreign).

Federalism Implications

This proposed rule would not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41695; October 30, 1987), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This proposed rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations (JAR)

The FAA has determined that this proposal, if adopted, would not conflict with any international agreements of the United States.

Conclusion

For reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this proposed regulation is not a ''significant regulatory action'' under Executive Order 12866. In addition, the FAA certifies that this proposed regulation 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. This proposed regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis and Review of Regulations. A final regulatory evaluation of the proposed regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 3000—Subpart B-Class B Airspace

* * * * *

ANM UT B Salt Lake City, UT [Revised]

Salt Lake City International Airport
(Lat. 40°47′12″ N, long. 111°58′08″ W)
Salt Lake City International Airport Runway 17 ILS (I–BNT) ILS/DME Antenna
(Lat. 40°46′10″ N, long. 111°57′44″ W)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL beginning at a point where the 13-mile arc of the Salt Lake City International Airport Runway 17 ILS (I–BNT) instrument landing system/distance measuring equipment (ILS/DME) antenna intercepts Interstate 15 (I–15), extending south on I–15 until intercepting a 4.3-mile arc from the Salt Lake City International Airport, extending south along the 4.3-mile arc from the Salt Lake City International Airport until intercepting I–15, extending south on I–15 until intercepting the 11-mile arc of the I–BNT ILS/DME antenna clockwise until intercepting the Union Pacific railroad tracks, extending southwest on the Union Pacific railroad tracks until intercepting the 13-mile arc of the I–BNT ILS/DME antenna clockwise until the point of beginning, excluding Areas C, D, K, and L described hereinafter.

Area B. That airspace extending upward from 7,600 feet MSL to and including 10,000 feet MSL between the 13-mile radius and the 25-mile radius of the I–BNT ILS/DME antenna, excluding that airspace south of the Union Pacific railroad tracks and that airspace east of where the 25-mile arc intercepts the Ogden-Hinckley Airport, UT, Class D airspace area and the Ogden, Hill AFB, UT, Class D airspace area until intercepting U.S. Highway 89, extending south on U.S. Highway 89 until intercepting the 11-mile arc of the I–BNT ILS/DME antenna.

Area C. That airspace extending upward from 6,500 feet MSL to and including 10,000 feet MSL beginning at a point where the 11-mile arc of the I–BNT ILS/DME antenna intercepts the Union Pacific railroad tracks extending southwest on the Union Pacific railroad tracks until intercepting the 13-mile arc of the I–BNT ILS/DME antenna clockwise until a point at lat. 40°46′30″ N, long. 112°14′50″ W, extending east to a bend on Interstate 80 (I–80) at lat. 40°46′30″ N, long. 112°08′48″ W, then southeast to the drive-in theater north of the city of Magna at lat. 40°43′00″ N, long. 112°04′48″ W, then southeast to the water tank at lat. 40°40°00″ N, long. 112°03′33″ W, extending southeast to a point at lat. 40°39′20″ N, long. 112°02′33″ W, extending south along long. 112°02′33″ W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna then northwest on the 11-mile arc of the I–BNT ILS/DME antenna clockwise to the point of beginning.

Area D. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point at lat. 40°39′20″ N, long. 112°02′33″ W, extending east to a point at lat. 40°39′20″ N, long. 111°58′13″ W, extending south along long. 111°58′13″ W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna, then counterclockwise until intercepting I-15, extending south on I–15 until intercepting a line at lat. 40°31′05″ N, extending west on lat. 40°31′05″ N, until a point at lat. 40°31′05″ N. long. 112°00′33″ W, then north along long. 112°00′33″ W, to intercept the 11-mile arc of the I–BNT ILS/DME antenna at lat. 40°35′22″ N, long. 112°00′33″ W, then clockwise on the 11-mile arc of I-BNT ILS/DME antenna to long. 112°02′33″ N, then to the point of beginning.

Area E. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point where the 11-mile arc of the I–BNT ILS/DME antenna intercepts a line at long. 112°09′03″ W, bounded on the west by long. 112°09′03″ W, on the south by a line at lat. 40°31′05″ N, to a point at lat. 40°31′05″ N, long. 112°00′33″ W, extending north to lat. 40°35′22″ N, long. 112°00′33″ W, then clockwise on the 11-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area F. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at lat. 40°31′05″ N, intercepts I–15 extending west on lat. 40°31′05″ N, to long. 112°00′33″ W, then south on long. 112°00′33″ W, to lat. 40°27′30″ N, then east along lat. 40°27′30″ N, to I–15, then north to the point of beginning.

Area G. That airspace extending upward from 8,000 to MSL to and including 10,000 feet MSL beginning at the Bingham Copper Mine at lat. 40°31′05″ N, long. 112°09′03″ W, extending south to lat. 40°27′30″ N, long. 112°09′03″ W, then east to lat. 40°27′30″ N, long. 112°00′33″ W, then north to lat. 40°31′05″ N, extending west to the point of beginning.

Area H. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at lat. 40°27′30″ N intercepts the I–15 freeway, extending south along I–15 to lat. 40°23′30″ N, extending west along lat. 40°23′30″ N to long. 111°54′00″ W thence south along long. 111°54′00″ W, until intercepting the 30-mile arc of the I–BNT ILS/DME, then clockwise along the 30-mile arc until intercepting long. 112°06′00″ W then north along long. 112°06′00″ W until intercepting lat. 40°23′30″ N, extending west along lat. 40°23′30″ N, until along long. 112°09′06″ W, then north along long. 112°09′06″ W until intercepting lat. 40°27′30″ N extending east to the point of beginning, excluding that airspace contained in Restricted Areas R–6412A and R–6412B when active.

Area I. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at long. 111°45′03″ W, intercepts Interstate 84 (I–84), extending south on long. 111°45′03″ W, until intercepting lat. 40°31′05″ N, extending west until intercepting I–15, then north along I–15 until intercepting the Salt Lake City International Airport 4.3-mile arc, extending north along the Salt Lake City International Airport 4.3-mile arc until intercepting I–15, then north along I–15 until intercepting U.S. Highway 89, extending north along U.S. Highway 89 until intercepting the Ogden, Hill AFB, UT, Class D airspace area, then north along the Ogden, Hill AFB, UT, Class D airspace area until intercepting I–84, extending east along I–84 until the point of beginning, excluding that block of airspace east of Salt Lake City International Airport between lat. 40°52′16″ N, and lat. 40°42′00″ N.

Area J. That airspace extending upward from 7,800 feet MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME antenna intercepts the Ogden-Hinckley Airport, UT, Class D airspace area counterclockwise along the Ogden-Hinckley Airport, UT, Class D airspace area and the Ogden, Hill AFB, UT, Class D airspace area until intercepting the 25-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area K. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point on the 13-mile arc of the I–BNT ILS/DME antenna at lat. 40°46′30″ N, long. 111°14′50″ W, extending east to the bend on I–80 at lat. 40°46′30″ N, long. 112°08′48″ W, then north along long. 112°08′48″ W, until intercepting the 13-mile arc of the I–BNT ILS/DME antenna, then counterclockwise along the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area L. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL west of I–15 bounded on the south by Cudahy Lane, on the west by Redwood Road until intercepting the Utah Power Transmission lines, extending northeast along the power transmission lines until intercepting the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area M. That airspace extending upward from 9,000 MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME intersects the I–15 freeway south of the Ogden Municipal Airport extending north along the I–15 freeway to the 30-mile arc of the I–BNT ILS/DME, thence counterclockwise along the 30-mile arc to long. 112°10′00″ W, then south along long. 112°10′00″ W to the 25-mile arc of the I–BNT ILS/DME, then clockwise along the 25-mile arc to the point of beginning.

Issued in Washington, DC, on July 31, 1995.

Nancy B. Kalinowski,

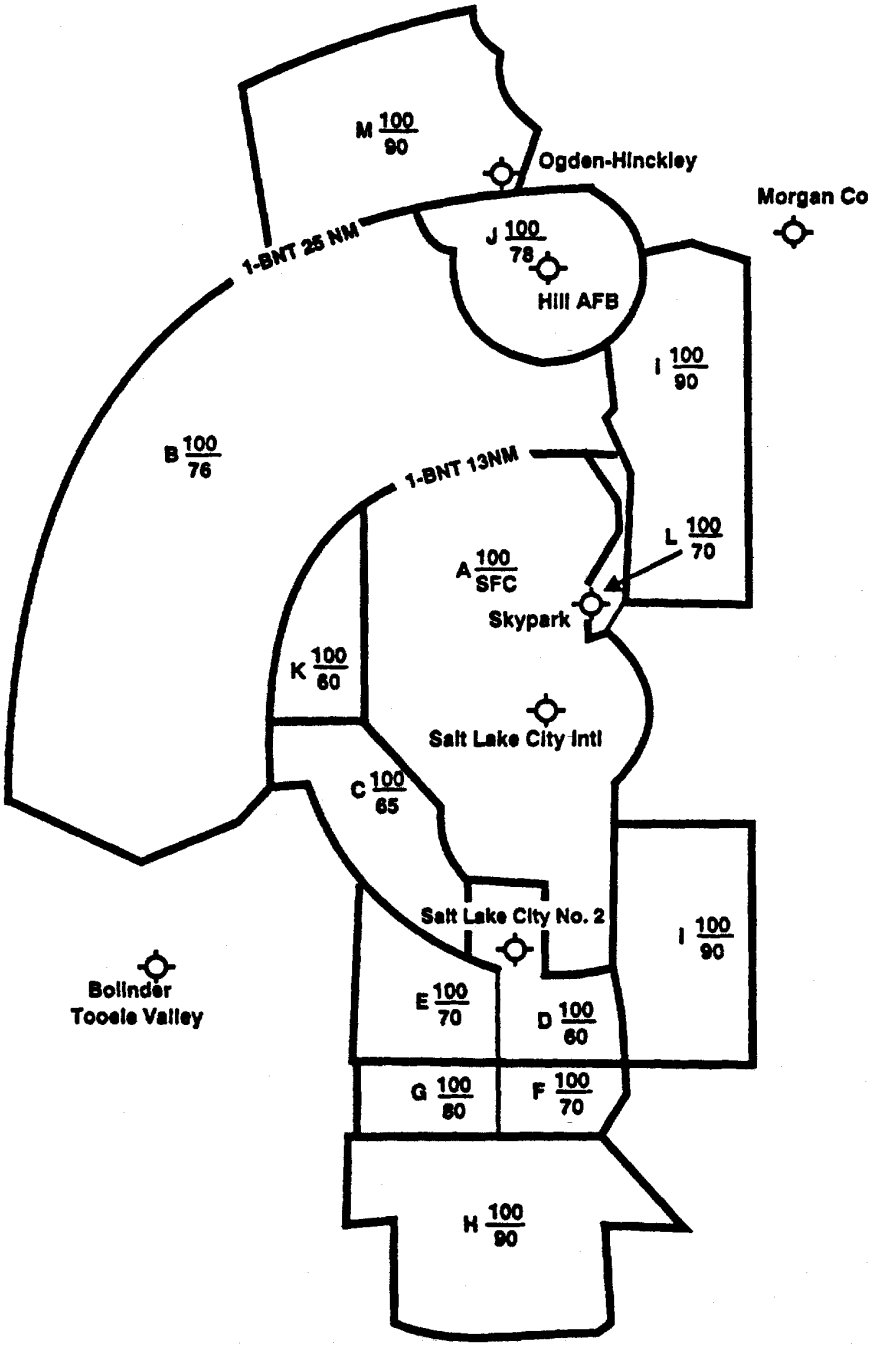
Acting Manager, Airspace-Rules and Aeronautical Information Division.

Appendix—Salt Lake City International Airport Class B Airspace Areas

Note: This appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4910–13–M

SALT LAKE CITY INTERNATIONAL AIRPORT
CLASS B AIRSPACE AREA
Field Elevation - 4227 feet
(Not to be used for navigation)



Prepared by the
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federal register

Friday
August 4, 1995

Part V

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 178 Intermediate Bulk Containers for Hazardous Materials; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173 and 178

[Docket No. HM–181E; Amdt. Nos. 171–134, 172–142, 173–243, 178–108]

RIN 2137–AC23

Intermediate Bulk Containers for Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; revisions and response to petitions for reconsideration.

SUMMARY: This amendment makes revisions to a final rule published in the **Federal Register** under Docket HM–181E (59 FR 38040, July 26, 1994) in response to a number of petitions for reconsideration. This document also clarifies and makes corrections to the final rule. That final rule established requirements for the construction, maintenance and use of intermediate bulk containers (IBCs) for the transportation of hazardous materials. These changes respond to petitions for reconsideration regarding IBC authorizations, design, construction and use, and align requirements for IBCs with revisions in the 8th edition of the U.N. Recommendations on the Transport of Dangerous Goods and the 27th revision of the International Maritime Organization's International Maritime Dangerous Goods (IMDG) Code.

DATES: This amendment is effective on October 1, 1995. However, immediate compliance with the regulations as amended herein is authorized.

Incorporation by reference: The incorporation by reference listed in this final rule is approved by the Director of the Office of the Federal Register as of October 1, 1995.

FOR FURTHER INFORMATION CONTACT: John Potter, Office of Hazardous Materials Standards, (202) 366–8553 or William Gramer, Office of Hazardous Materials Technology, (202) 366–4545, RSPA, U.S. Department of Transportation, 400 Seventh Street SW., Washington DC 20590–0001.

SUPPLEMENTARY INFORMATION: On July 26, 1994, the Research and Special Programs Administration published a final rule under Docket HM–181E (59 FR 38040) that revised the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) by incorporating requirements for the construction, maintenance and use of IBCs for the transportation of hazardous materials. In response to 29 petitions for reconsideration, this document revises, clarifies and makes corrections to the final rule. Petitioners recommended revisions to: (1) The policy stated in the preamble at 59 FR 38040 addressing exemption packagings affected by this final rule; (2) the special provisions for IBCs contained in § 172.102; (3) the provision for the manufacture and use of DOT specification 56 and 57 portable tanks provided in § 173.32(d); (4) operational requirements for reuse of IBCs in § 173.35(b); (5) generic authorizations for use of IBCs in §§ 173.240, 173.241, 173.242, and 173.243; (6) standards for rigid plastic and composite IBCs in §§ 178.706 and 178.707; (7) responsibility for the performance of UN-certified IBCs in § 178.801(b); (8) testing and certification of IBCs in § 178.803; and (9) application of the IBC vibration test in § 178.819.

Several petitions relating to IBC commodity authorizations, such as hydrogen peroxide aqueous solutions, were addressed in a final rule published under Docket HM–215A (59 FR 67390–67522, December 29, 1994).

Petitions Granted

In response to petitions, authorizations for use of IBCs for a number of materials are added to the § 172.101 Hazardous Materials Table. Some of these changes are consistent with many of the latest revised IBC authorizations in the International Maritime Organization's International Maritime Dangerous Goods (IMDG) Code. Others reflect prior safe hazardous materials shipping experience in DOT exemption bulk packagings. For example, IBC authorizations are revised for a number of Division 4.3 DANGEROUS WHEN WET materials in Packing Groups II and III, which were previously forbidden for transportation in IBCs. Many of these materials now are permitted in all sift-proof and water-resistant IBCs. In addition, certain Division 4.3 Packing Group I solid materials are authorized for transportation in IBCs, consistent with the IMDG Code. Prohibitions against use of IBCs are removed from ''Cyclohexylamine'' and ''Hafnium powder, dry.'' A wider range of IBCs is permitted for ''Toxic, liquids, organic, n.o.s.,'' and ''Toxic liquid, inorganic, n.o.s.,'' Packing Group II.

One petitioner asked RSPA to add filling limit provisions to the IBC operational requirements in § 173.35 similar to those provided in § 173.24a(b) for non-bulk packagings. For example, the gross mass (or net mass in the case of flexible IBCs) marked on the IBC can be exceeded when the IBC is tested and certified for a Packing Group II liquid and filled with a Packing Group III solid; or an IBC is tested and certified for a Packing Group I solid and filled with a Packing Group II or Packing Group III solid. RSPA concurs and, accordingly, is adding a paragraph (l) to provide for this flexibility in IBC use. RSPA notes that the amount by which the gross mass of IBCs can be exceeded in these cases is based on the ratios between drop heights specified for Packing Groups I and III (2.25) and Packing Groups I and II, and II and III (1.5). IBCs certified for liquids may also be used for solids.

In response to a petition, a maximum net mass capacity standard of not less than 400 kilograms (882 pounds) is added in § 178.700(c)(1) for consistency with similar standards for non-bulk packagings in subpart L. To reduce the need for IBC retesting, RSPA grants a petition from the Rigid Intermediate Bulk Container Association by adding Note 6 to the table of IBC tests in § 178.803 to permit any desired sequencing of the vibration test for dual-marked, exemption IBCs and non-DOT specification portable tanks intended for export that were tested before October 1, 1994.

Several petitioners requested removal of the word ''rotate'' from the vibration test method prescribed for IBCs in § 178.819(b)(2). They contend that allowing an IBC to rotate would involve a ''major redesign of all known testing platforms and restraining members.'' Section 178.608(b)(2) requires that non-bulk packagings be left free to rotate, a standard that may be inappropriate for IBCs which are unlikely to experience the same vibration stresses in transportation. RSPA further acknowledges that the vibration test requirement for DOT 56 and 57 portable tanks in §§ 178.252–3 and 178.253–5 allows only vertical motion. Therefore, the word ''rotate'' is removed from the test method stated in § 178.819(b)(2). However, RSPA will not restrict rotation if it is included in an established vibration test protocol.

One petitioner stated that general requirements in § 178.801(b) for assuring that each IBC is capable of meeting Part 178 performance standards are inconsistent with other provisions in the HMR. As written, the petitioner said, paragraph (b) makes the shipper ''responsible for every aspect of [IBC] fabrication and testing, including those aspects that were not performed by the shipper.'' The petitioner suggested that paragraph (b) conform with final rules published under HM–215A clarifying §§ 173.22, 178.2 and 178.601(b)

requiring shippers to be responsible for only the manufacturing functions they perform. RSPA concurs and paragraph (b) is revised accordingly.

Petitions Denied

A petitioner claimed that RSPA's exemption policy for IBCs established in the final rule (59 FR 38040) is unworkable for every exemption IBC considered to be ''equivalent'' to IBCs already meeting UN standards. The petitioner said no exemption IBC could meet terms in option 2 permitting exemption IBCs to be certified as UN standard packagings if they already conform with subpart N and O requirements. The petitioner said, ''A builder of existing exemption tanks would have had to predict the tests and their order in testing that DOT prescribes.'' The petitioner observed that the proposed testing differed from tests prescribed in the final rule. The petitioner asked RSPA to add a note to the table of IBC tests in § 178.803 allowing exemption IBCs to be marked to indicate compliance with subparts N and O but that they need not ''be tested as prescribed in this section.'' However, the petitioner said such IBCs ''must be capable of passing all the applicable tests.''

This request is denied. Exemption IBCs that meet new construction and performance testing standards in subparts N and O, under option 2, ''may be remarked and certified as UN standard packagings.'' Under option 3, existing exemption IBCs developed under standards different from those adopted under subparts N and O ''may be approved as a UN standard packaging'' under the approval process provided in § 178.801(i) if they are shown to be equally effective and testing methods used are equivalent to UN standards. With respect to the petitioner's request, under option 3, manufacturers or users of IBCs differing from subpart O requirements in the way they were tested, including test sequences differing from the order of tests established in § 178.803, may demonstrate that IBCs developed under exemption are equally effective, including test methods.

Several petitioners requested indefinite use of exemption IBCs as long as they meet applicable periodic retest requirements. These requests are denied. Under the exemption policy stated at 59 FR 38040, an equivalent packaging may be approved by RSPA as a UN standard packaging under the provision in § 178.801(i).

A petitioner's request to revise § 173.35(b) to permit reuse of flexible IBCs is denied. As RSPA pointed out in the preamble to the final rule in HM–181E (59 FR 38042), there is a lack of sufficient evidence ''that fiberboard, wooden or flexible IBCs are designed to be, or are suitable for, reuse in hazardous materials service.''

Two petitioners asked RSPA to amend paragraph (c) of §§ 173.240 and 173.241 by adding the phrase ''rigid intermediate bulk containers '' to the titles of these paragraphs. They requested revisions to § 173.240(c) to authorize ''sift-proof non-DOT specification portable tanks, closed bulk bins and rigid intermediate bulk containers suitable for transport of liquids,'' and to § 173.241(c) to authorize ''non-DOT specification portable tanks and intermediate bulk containers suitable for transport of liquids.'' The petitions are denied since a non-specification bulk packaging fitting this description currently is permitted by paragraph (c) of these sections. In effect, any rigid enclosed packaging that is strong and tight (but not a flexible IBC), and constructed so that its contents will not leak under conditions normally incident to transportation meets requirements for a ''closed bulk bin'' in § 173.240(c), a ''sift-proof non-DOT specification portable tank'' in § 173.240(c), or a ''non-DOT specification portable tank suitable for transport of liquids'' in § 173.241(c).

Petitioners asked RSPA to authorize, under § 173.242, rigid plastic and composite IBCs for ''Oxidizing substances, liquid, corrosive, n.o.s.,'' Packing Group II, and ''Corrosive liquids, oxidizing, n.o.s.,'' Packing Group II. In the final rule, these materials are authorized in metal-only IBCs under § 173.243. The petitions are denied. RSPA believes there is an insufficient shipment history of these materials in a wide range of IBC design types to warrant broader IBC authorization.

RSPA is denying a petition to restore DOT 56 and 57 portable tank design and construction requirements in §§ 178.251 through 178.251–7, 178.252 and 178.253. The petitioner claimed that removal of these sections would lead to ''unnecessary confusion and uncertainty'' since new construction of these tanks is authorized through September 30, 1996. Removal of construction requirements for DOT Specification 56 and 57 portable tanks is consistent with removal of pre-HM–181 non-bulk packaging specifications four years prior to the date on which they were no longer permitted to be manufactured. For reference to DOT 56 and 57 specifications, manufacturers and users can retain the 1993 edition of 49 CFR Parts 100–199, as amended. However, RSPA encourages them to convert to the new standards as soon as practicable. A petitioner asked RSPA to add a ''fusible'' device to the pressure relief devices specified for metal, rigid plastic and composite IBCs in §§ 178.705(c)(2)(i), 178.706(c)(4) and 178.707(c)(3)(iv). This petition is denied as unnecessary. Fusible devices are currently permitted by the provision in each section that states pressure relief may be achieved by ''other means of construction.''

Petitions requesting revisions to §§ 178.706(c)(3) and 178.707(c)(3)(iii) to permit use of recycled materials for the construction of plastic and composite IBCs are denied. Although RSPA recognizes the benefits of recycling plastic waste, RSPA has not been provided with sufficient information to justify use of recycled plastic materials in the construction of IBCs.

Petitions to allow use of the ''USA'' mark on IBCs manufactured in other countries and intended for sale and use in the U.S. are denied. As clarified in § 178.3(b)(3) under Docket HM–215A (59 FR 67519, December 29, 1994), ''the letters 'USA' may only be used to indicate that the IBC was manufactured in the United States.'' IBCs manufactured in a foreign country should conform to requirements of the competent authority of that country.

Clarifications and Corrections

In other revisions to this final rule, RSPA corrects U.S. standard conversions relating to the upper capacity for IBCs authorized for Packing Group I solids in § 173.242(d)(2)(i) to read ''53 cubic feet'' and ''106 cubic feet,'' respectively. Also in § 173.242(d)(2), ''flexible'' and ''fiberboard'' IBCs (inadvertently omitted in the final rule) are authorized. In § 173.243(d)(2)(i), Packing Group I solids are authorized for transportation in metal IBCs with capacities up to three cubic meters (106 cubic feet). In § 178.700(c)(1)(i), the volumetric capacity for the body of a receptacle is specified as not more than three cubic meters (3,000 liters, 793 gallons, or 106 cubic feet) and not less than 0.45 meters (450 liters, 119 gallons, or 15.9 cubic feet).

RSPA is correcting § 173.243(d)(2) by removing references to IBCs other than metal. Section 178.705(c)(2)(ii) is clarified to show that the pressure relief requirement for metal IBCs is measured in gauge pressure and not absolute pressure. Thus, reference to the subtraction of atmospheric pressure is removed and reference to measurement of gauge pressure of the hazardous

material measured in the IBC is added in its place.

RSPA is aligning the table of IBC tests in § 178.803 with new provisions in the 8th revision of the UN Recommendations on the Transport of Dangerous Goods for the bottom lift and stacking tests. Therefore, in this final rule, rigid plastic and composite IBCs are required to be bottom lift-tested without qualification. References to Note 2 in the table specifying that test only if IBCs are ''designed to be handled'' this way are removed from rigid plastic and composite IBC design types. RSPA also is changing Note 2 to require metal IBCs to withstand either the top lift test or the bottom lift test. Note 7 is added to except metal, rigid plastic, composite, fiberboard and wooden IBCs from the stacking test if the IBC is not designed to be stacked.

In this final rule, RSPA also is making an editorial correction to § 173.306(e) by updating a reference to a national consensus standard for refrigerating machines. Section 173.306(e) is amended to replace the reference to ANSI B9.1 with a reference to ANSI/ASHRAE 15–1994, which has superseded ANSI B9.1.

Regulatory Analyses and Notices

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 was not reviewed by the Office of Management and Budget. The rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''). Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous materials that cover certain subjects and are not substantively the same as Federal requirements. 49 U.S.C. 5125(b)(1). Covered subjects are:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This final rule addresses covered subjects, under items (ii) and (v) above and, therefore, preempts State, local, or Indian tribe requirements not meeting the ''substantively the same'' standard. The Federal hazardous materials transportation law (49 U.S.C. 5125(b)(2)) 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 no later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption of the July 26, 1994 final rule was January 13, 1995. RSPA has determined that the effective date of Federal preemption for this final rule will be November 1, 1995. Because RSPA lacks discretion in this area, preparation of a federalism assessment is not warranted.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. Although this rule applies to certain shippers and carriers of hazardous materials in intermediate bulk containers, some of whom may be small entities, its economic impacts are minimal.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) and assigned control number 2137–0510.

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 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packagings and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173 and 178 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.7 [Amended]

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 171.7, in the table in paragraph (a)(3), under ''American National Standards Institute, Inc.'', in column 1, the entry ''ANSI B9.1–89, Safety Code for Mechanical Refrigeration'' is revised to read ''ANSI/ASHRAE 15–94, Safety Code for Mechanical Refrigeration''.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

3. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

4. In § 172.101, the following entries in the Hazardous Materials Table are revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or Division	Identification Numbers	Packing group	Label(s) required (if not excepted)	Special provisions	Packaging authorizations (§173.***) (8)			Quantity limitations (9)		Vessel stowage requirements (10)	
							Exceptions	Nonbulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Vessel stowage	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*		*		*	*	*	*		*			
	Alkali metal amides	4.3	UN1390	II	Dangerous when wet	A6, A7, A8, A19, A20, B106.	None	212	241	15 kg	50 kg	E	40
	Alkaline earth metal alloys, n.o.s.	4.3	UN1393	II	Dangerous when wet	A19, B101, B106.	None	212	241	15 kg	50 kg	E	
	Alkaline earth metal amalgams.	4.3	UN1392	I	Dangerous when wet	A19, B101, B106, N34, N40.	None	211	242	Forbidden.	15 kg	D	
	Aluminum ferrosilicon powder.	4.3	UN1395	II	Dangerous when wet, poison.	A19, B106, B108.	None	212	242	15 kg	50 kg	A	40, 85, 103
				III	Dangerous when wet, keep away from food.	A19, A20, B106, B108.	None	213	241	25 kg	100kg	A	40, 85, 103
	Aluminum powder, uncoated.	4.3	UN1396	II	Dangerous when wet	A19, A20, B106, B108.	None	212	242	15 kg	50 kg	A	39
				III	Dangerous when wet	A19, A20, B106, B108.	None	213	241	25 kg	100 kg	A	39
	Aluminum processing by-products.	4.3	UN3170	II	Dangerous when wet	B106	None	212	242	15 kg	50 kg	B	85, 103
				III	Dangerous when wet	B106	None	213	241	25 kg	100 kg	B	85, 103
	Aluminum solicon powder, uncoated.	4.3	UN1398	III	Dangerous when wet	A1, A19, B108.	None	213	241	25 kg	100 kg	A	40, 85, 103
	Barium	4.3	UN1400	II	Dangerous when wet	A19, B101, B106.	None	212	241	15 kg	50 kg	E	
	Calcium	4.3	UN1401	II	Dangerous when wet	B101, B106.	None	212	241	15 kg	50 kg	E	
	Calcium carbide	4.3	UN1402	I	Dangerous when wet	A1, A8, B55, B101, B106, N34.	None	211	242	Forbidden.	15 kg	B	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or Division	Identification Numbers	Packing group	Label(s) required (if not excepted)	Special provisions	Packaging authorizations (§173.***) (8)			Quantity limitations (9)		Vessel stowage requirements (10)	
							Exceptions	Nonbulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Vessel stowage	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
				II	Dangerous when wet	A1, A8, B55, B101, B106, N34.	None	212	241	15 kg	50 kg	B	
	Calcium silicide	4.3	UN1405	II	Dangerous when wet	A19, B105, B106.	None	212	241	15 kg	50 kg	B	85, 103
				III	Dangerous when wet	A1, A19, B106, B108.	None	213	241	25 kg	100 kg	B	85, 103
	Cerium, *turnings or gritty power.*	4.3	UN3078	II	Dangerous when wet	A1, B106, B109.	None	212	242	15 kg	50 kg	E	
	Cresylic acid	6.1	UN2022	II	Poison, corrosive	B110, T8.	None	202	243	1 L	30 L	B	
	Cyclohexylamine	8	UN2357	II	Corrosive, flammable liquid	B101, T8, T26.	None	202	243	1 L	30 L	A	40
	Hafnium powder, dry	4.2	UN2545	I	Spontaneously combustible	B100	None	211	242	Forbidden.	Forbidden.	D	
				II	Spontaneously combustible	A19, A20, B101, B106, N34.	None	212	241	15 kg	50 kg	D	
				III	Spontaneously combustible	B105, B106.	None	213	241	25 kg	100 kg	D	
	Lithium borohydride	4.3	UN1413	I	Dangerous when wet	A19, B100, N40.	None	211	242	Forbidden.	15 kg	E	
	Lithium nitride	4.3	UN2806	I	Dangerous when wet	A19, B101, B106, N40.	None	211	242	Forbidden.	15 kg	E	
	Lithium silicon	4.3	UN1417	II	Dangerous when wet	A19, A20, B105, B106.	None	212	241	15 kg	50 kg	A	85, 103
	Magnesium, powder *or* Magnesium alloys, powder.	4.3	UN1418	I	Dangerous when wet, spontaneously combustible.	A19, B56.	None	211	244	Forbidden.	15 kg	A	39
				II	Dangerous when wet, spontaneously combustible.	A19, B56, B101, B106.	None	212	241	15 kg	50 kg	A	39

			III	Dangerous when wet, spontaneously combustible.	A19, B56, B106, B108.	None	213	241	25 kg	100 kg	A	39
Maneb stabilized *or* Maneb preparations, stabilized *against self-heating*.	4.3	UN2968	III	Dangerous when wet	54, A1, A19, B108.	None	213	242	25 kg	100 kg	B	34
Metal hydrides, water reactive, n.o.s.	4.3	UN1409	I	Dangerous when wet	A19, B100, N34, N40.	None	211	242	Forbidden.	15 kg	D	
			II	Dangerous when wet	A19, B101, B106, N34, N40.	None	212	242	15 kg	50 kg	D	
Metallic substance, water reactive, n.o.s.	4.3	UN3208	I	Dangerous when wet	B101, B106.	None	211	242	Forbidden.	15 kg	E	40
			II	Dangerous when wet	B101, B106.	None	212	242	15 kg	50 kg	E	40
			III	Dangerous when wet	B105, B108.	None	213	241	25 kg	100 kg	E	40
Metallic substance, water reactive, self-heating, n.o.s.	4.3	UN3209	I	Dangerous when wet, spontaneously combustible.	B100	None	211	242	Forbidden.	15 kg	E	40
			II	Dangerous when wet, spontaneously combustible.	B101, B106.	None	212	242	15 kg	50 kg	E	40
			III	Dangerous when wet, spontaneously combustible.	B101, B106.	None	213	242	25 kg	100 kg	E	40
Organometallic compound *or* Compound solution *or* Compound dispersion, water-reactive, flammable, n.o.s.	4.3	UN3207	I	Dangerous when wet, flammable liquid.		None	201	244	Forbidden.	1 L	E	40
			II	Dangerous when wet, flammable liquid.	B101, B106.	None	202	243	1 L	5 L	E	40
			III	Dangerous when wet, flammable liquid.	B106	None	203	242	5L	60 L	E	40
Phosphorus pentasulfide, *free from yellow or white phosphorus*.	4.3	UN1340	II	Dangerous when wet, flammable solid.	A20, B59, B101, B106.	None	212	242	15 kg	50 kg	B	74
Potassium borohydride	4.3	UN1870	I	Dangerous when wet	A19, B100, N40.	None	211	242	Forbidden.	15k	E	
Sodium borohydride	4.3	UN1426	I	Dangerous when wet	B100, N40.	None	211	242	Forbidden.	15 kg	E	
Toxic liquid, inorganic, n.o.s.	6.1	UN3287	I	Poison	T42	None	201	243	1 L	30L	A	
			II	Poison	T14, B110.	None	202	243	5 L	60L	A	
			III	Keep away from food	T7	153	203	241	60 L	220 L	A	
Toxic, liquids, organic, n.o.s.	6.1	UN2810	I	Poison	T42	None	201	243	1L	30L	B	40
			II	Poison	B110, T14.	None	202	243	5 L	60L	B	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or Division	Identification Numbers	Packing group	Label(s) required (if not excepted)	Special provisions	Packaging authorizations (§173.***) (8)			Quantity limitations (9)		Vessel stowage requirements (10)	
							Exceptions	Nonbulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Vessel stowage	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
				III	Keep away from food	T7	153	203	241	60 L	220 L	A	40
	Water-reactive liquid, corrosive, n.o.s.	4.3	UN3129	I	Dangerous when wet, corrosive.		None	201	243	Forbidden.	1 L	D	
				II	Dangerous when wet, corrosive.	B106	None	202	243	1 L	5 L	E	85
				III	Dangerous when wet, corrosive.	B106	None	203	242	5 L	60 L	E	
	Water-reactive liquid, n.o.s	4.3	UN3148	I	Dangerous when wet		None	201	244	Forbidden.	1 L	E	40
				II	Dangerous when wet	B106	None	202	243	1 L	5 L	E	40
				III	Dangerous when wet	B106	None	203	242	5 L	60 L	E	40
	Water-reactive liquid, toxic, n.o.s.	4.3	UN3130	I	Dangerous when wet, poison.	A4	None	201	243	Forbidden.	1 L	D	
				II	Dangerous when wet, poison.	B106	None	202	243	1 L	5 L	E	85
				III	Dangerous when wet, keep away from food.	B106	None	203	242	5 L	60 L	E	85
	Water-reactive solid, corrosive, n.o.s.	4.3	UN3131	I	Dangerous when wet, corrosive.	B101, B106, N40.	None	211	242	Forbidden.	15 kg	D	
				II	Dangerous when wet, corrosive.	B101, B106.	None	212	242	15 kg	50 kg	E	85
				III	Dangerous when wet, corrosive.	B105, B106.	None	213	241	25 kg	100 kg	E	85
	Water-reactive solid, flammable, n.o.s.	4.3	UN3132	I	Dangerous when wet, flammable solid.	B101, B106, N40.	None	211	242	Forbidden.	15 kg	E	
				II	Dangerous when wet, flammable solid.	B101, B106.	None	212	242	15 kg	50 kg	E	
				III	Dangerous when wet, flammable solid.	B105, B106.	None	213	241	25 kg	100 kg	E	
	Water-reactive solid, n.o.s	4.3	UN2813	I	Dangerous when wet	B101, B106, N40.	None	211	242	Forbidden.	15 kg	E	40
				II	Dangerous when wet	B101, B106.	None	212	242	15 kg	50 kg	E	40
				III	Dangerous when wet	B105, B106.	None	213	241	25 kg	100 kg	E	40
	Water-reactive solid, self-heating, n.o.s.	4.3	UN3135	I	Dangerous when wet, spontaneously combustible.	B100, N40.	None	211	242	Forbidden.	15 kg	E	
				II	Dangerous when wet, spontaneously combustible.	B101, B106.	None	212	242	15 kg	50 kg	E	
				III	Dangerous when wet, spontaneously combustible.	B101, B106.	None	213	241	25 kg	100 kg	E	

Water-reactive solid, toxic, n.o.s.	4.3	UN3134	I	Dangerous when wet, poison.	A8, B101, B106, N40.	None	211	242	Forbidden.	15 kg	D		
			II	Dangerous when wet, poison.	B105, B106.	None	212	242	15 kg	50 kg	E	85	
			III	Dangerous when wet, keep away from food.	B105, B106.	None	213	241	25 kg	100 kg	E	85	
Zinc powder *or* Zinc dust	4.3	UN1436	I	Dangerous when wet, spontaneously combustible.	A19, B109, N40.	None	211	242	Forbidden.	15 kg	A		
			II	Dangerous when wet, spontaneously combustible.	A19, B109.	None	212	242	15 kg	50 kg	A		
			III	Dangerous when wet, spontaneously combustible.	B108	None	213	242	25 kg	100 kg	A		

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PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

5. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

6. In § 173.24b, paragraph (d)(2) is revised to read as follows:

§ 173.24b Additional general requirements for bulk packagings.

* * * * *

(d) * * *

(1) * * *

(2) Except as otherwise provided in this subchapter, exceeds the maximum weight of lading marked on the specification plate.

7. In § 173.35, paragraph l is added to read as follows:

§ 173.35 Hazardous materials in intermediate bulk containers

* * * * *

(l) *Intermediate bulk container filling limits.*

(1) Except as provided in this section, an intermediate bulk container may not be filled with a hazardous material in excess of the maximum gross mass marked on that container.

(2) An intermediate bulk container which is tested and marked for Packing Group II liquid materials may be filled with a Packing Group III liquid material to a gross mass not exceeding 1.5 times the maximum gross mass marked on that container, if all the performance criteria can still be met at the higher gross mass.

(3) An intermediate bulk container which is tested and marked for liquid hazardous materials may be filled with a solid hazardous material to a gross mass not exceeding the maximum gross mass marked on that container. In addition, an intermediate bulk container intended for the transport of liquids which is tested and marked for Packing Group II liquid materials may be filled with a Packing Group III solid hazardous material to a gross mass not exceeding the marked maximum gross mass multiplied by 1.5 if all the performance criteria can still be met at the higher gross mass.

(4) An intermediate bulk container which is tested and marked for Packing Group I solid materials may be filled with a Packing Group II solid material to a gross mass not exceeding the maximum gross mass marked on that container, multiplied by 1.5, if all the performance criteria can be met at the higher gross mass; or a Packing Group III solid material to a gross mass not exceeding the maximum gross mass marked on the intermediate bulk container, multiplied by 2.25, if all the performance criteria can be met at the higher gross mass. An intermediate bulk container which is tested and marked for Packing Group II solid materials may be filled with a Packing Group III solid material to a gross mass not exceeding the maximum gross mass marked on the intermediate bulk container, multiplied by 1.5.

§ 173.35 [Amended]

8. In addition, in § 173.35, in paragraph (j), the references to ''35.3 cubic feet'' and ''17.7 cubic feet'' are amended to read ''106 cubic feet'' and ''53 cubic feet'' respectively.

§ 173.242 [Amended]

9. In paragraph (d)(2)(i) of § 173.242, the following changes are made:

a. The references to ''35.4 cubic feet'' and ''17.7 cubic feet'' are amended to read ''106 cubic feet'' and ''53 cubic feet'' respectively.

b. After the word ''composite'', the words ''flexible, fiberboard'' are added.

10. In § 173.243, paragraph (d)(2) is revised as follows:

§ 173.243 Bulk packaging for certain high hazard liquids and dual hazard materials which pose a moderate hazard.

* * * * *

(d) * * *

(2) Intermediate bulk containers are authorized subject to the following conditions and limitations:

(i) No Packing Group I liquids or materials classified as Division 4.2 Packing Group I are authorized in intermediate bulk containers.

(ii) Packing Group I solids are authorized only in metal intermediate bulk containers with capacities up to three cubic meters (106 cubic feet); and

(iii) Liquids with a vapor pressure greater than 110 kPa (16 psig) at 50 °C (122 °F), or 130 kPa (18.9 psig) at 55 °C (131 °F), are not authorized in metal intermediate bulk containers.

* * * * *

11. In § 173.306, paragraph (e)(1)(i) is revised to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(e) * * *

(1) * * *

(i) Each pressure vessel may not contain more than 5,000 pounds of Group A1 refrigerant as classified in ANSI/ASHRAE Standard 15 or not more than 50 pounds of refrigerant other than Group A1.

* * * * *

§ 173.306 [Amended]

12. In addition, in § 173.306, paragraphs (e)(1)(iii), (e)(1)(v) and (e)(1)(vi) are amended by removing the phrase ''American National Standard B9.1.'' and replacing it with the phrase ''ANSI/ASHRAE 15''.

PART 178—SPECIFICATIONS FOR PACKAGINGS

13. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

13. In § 178.700, paragraph (c)(1) is revised to read as follows:

§ 178.700 Purpose, scope and definitions

* * * * *

(c) * * *

(1) *Body* means the receptacle proper (including openings and their closures, but not including service equipment), that has a volumetric capacity of not more than three cubic meters (3,000 liters, 793 gallons, or 106 cubic feet) and not less than 0.45 cubic meters (450 liters, 119 gallons, or 15.9 cubic feet) or a maximum net mass of not less than 400 kilograms (882) pounds.

* * * * *

§ 178.705 [Amended]

15. In § 178.705, in paragraph (c)(2)(ii), the words ''minus 100 kPa (14.5 psig)'' are removed and the words ''measured in the intermediate bulk container'' are added in their place.

§ 178.710 [Amended]

16. In § 178.710, in paragraph (c)(5), the words ''throughout the life of the inner receptacle'' are removed and the words ''throughout the life of the container'' are added in their place.

17. In § 178.801, paragraph (b) is revised to read as follows:

§ 178.801 General requirements

* * * * *

(a) * * *

(b) *Responsibility.* It is the responsibility of the intermediate bulk container manufacturer to assure that each intermediate bulk container is capable of passing the prescribed tests. To the extent that an intermediate bulk container assembly function, including final closure, is performed by the person who offers a hazardous material for transportation, that person is responsible for performing the function in accordance with §§ 173.22 and 178.2 of this subchapter.

* * * * *

18. Section 178.803 is revised to read as follows:

§ 178.803 Testing and certification of intermediate bulk containers.

Tests required for the certification of each intermediate bulk container design type are specified in the following table. The letter X indicates that one intermediate bulk container (except where noted) of each design type must be subjected to the tests in the order presented:

Performance test	Intermediate Bulk Container (IBC) type					
	Metal IBCs	Rigid plastic IBCs	Composite IBCs	Fiberboard IBCs	Wooden IBCs	Flexible IBCs
Vibration	[6]X	[6]X	[6]X	[6]X	[6]X	[1,5]↓
Bottom lift	[2]X	X	X	X	X	
Top lift	[2]X	[2]X	[2]X			[2,5]X
Stacking	[7]X	[7]X	[7]X	[7]X	[7]X	[5]X
Leakproofness	[3]X	[3]X	[3]X			
Hydrostatic	[4]X	[3]X	[3]X			
Drop	[4]X	[4]X	[4]X	[4]X	[4]X	[5]X
Topple						[5]X
Righting						[2,5]X
Tear						[5]X

[1] Flexible intermediate bulk containers must be capable of withstanding the vibration test.
[2] This test must be performed only if intermediate bulk containers are designed to be handled this way. For metal intermediate bulk containers, at least one of the bottom lift or top lift tests must be performed.
[3] The leakproofness and hydrostatic pressure tests are required only for intermediate bulk containers intended to contain liquids or intended to contain solids loaded or discharged under pressure.
[4] Another intermediate bulk container of the same design type may be used for the drop test set forth in § 178.810 of this subchapter.
[5] Another different flexible intermediate bulk container of the same design type may be used for each test.
[6] The vibration test may be performed in another order for intermediate bulk containers manufactured and tested under provisions of an exemption before October 1, 1994 and for non-DOT specification portable tanks tested before October 1, 1994, intended for export.
[7] This test must be performed only if the intermediate bulk container is designed to be stacked.

§ 178.819 [Amended]

19. In § 178.819, in paragraph (b)(2), the word ''rotate'' is removed and the words ''and bounce'' are added in its place.

Issued in Washington, DC on July 31, 1995, under authority delegated in 49 CFR Part 1.

Ana Sol Gutiérrez,

Deputy Administrator, Research and Special Programs Administration.

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August 4, 1995

Part VI

Environmental Protection Agency

40 CFR Parts 302 and 355

Administrative Reporting Exemptions for Certain Radionuclide Releases; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 302 and 355

[FRL–5268–9]

Administrative Reporting Exemptions for Certain Radionuclide Releases

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking requests comments on broader administrative exemptions from the release reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and the Emergency Planning and Community Right-to-Know Act. In particular, the Environmental Protection Agency (EPA) is proposing to grant reporting exemptions for releases of naturally occurring radionuclides associated with land disturbance incidental to extraction activities at certain kinds of mines, and coal and coal ash piles at all kinds of sites. EPA also is requesting comments on two alternatives to these exemptions.

These reporting exemptions are being proposed in response to comments on a November 30, 1992 proposed rule on administrative reporting exemptions (57 FR 56726).

EPA thoroughly evaluated the radionuclide concentrations in various mining materials, coal, and coal ash relative to background levels to determine the scope of the proposed reporting exemptions; thus, this document reflects a sound, scientific approach. The exemptions would be consistent with the Agency's common sense goals in that they would eliminate unnecessary reporting burdens and allow EPA to focus its resources on the most serious releases. The reporting exemptions would result in an estimated net cost savings to industry of approximately $455,000 annually.

DATES: Comments must be submitted on or before October 3, 1995.

ADDRESSES: *Submittal of Comments:* Comments should be submitted in triplicate (no facsimiles or tapes) to: Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; 703/603–8917. Please note that this is the mailing address only. Documents are available for viewing, by appointment only, at the address provided below in the ''Document Viewing'' section.

Document Viewing: Copies of materials relevant to this rulemaking are contained in Docket Number 102RQ–RN–2 at EPA Headquarters at the following address: U.S. EPA CERCLA Docket Office (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. The docket is available for viewing, by appointment only, after the appearance of this rule. An appointment to view the docket can be made by calling the Docket Coordinator at 703/603–8917. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please note that this is the visiting address only. Mail comments to the address listed above in the ''Submittal of Comments'' section.

The public may copy a maximum of 266 pages from any regulatory docket at no cost. If the number of pages copied exceeds 266, however, an administrative fee of $25 and a charge of $0.15 per page for each page after page 266 will be incurred. The docket will mail copies of materials to requestors who are outside the Washington, DC metropolitan area.

Release Notification: The toll-free telephone number of the National Response Center is 800/424–8802; in the Washington, DC metropolitan area, the number is 202/267–2675. The facsimile number for the National Response Center is 202/267–2165 and the telex number is 892427.

FOR FURTHER INFORMATION CONTACT: The RCRA/UST, Superfund, and EPCRA Hotline at 800/424–9346 (in the Washington, DC metropolitan area, contact 703/412–9810); the Telecommunications Device for the Deaf (TDD) Hotline at 800/553–7672 (in the Washington, DC metropolitan area, contact 703/486–3323); or Ms. Gerain H. Perry, Response Standards and Criteria Branch, Emergency Response Division (5202G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or at 703/603–8760.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction
  A. Statutory Authority
  B. Background of this Rulemaking
  C. Consultation and Outreach Activities
II. Regulatory Reporting Exemptions
  A. Proposed Exemptions
  B. Alternative Exemptions
III. Regulatory Analyses
  A. Executive Order 12866
  B. Regulatory Flexibility Act
  C. Paperwork Reduction Act
  D. Unfunded Mandates

I. Introduction

A. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (Pub. L. 96–510), 42 U.S.C. 9601 et seq., as amended, established broad Federal authority to respond to releases or threats of releases of hazardous substances from vessels and facilities. Section 101(14) of CERCLA defines the term ''hazardous substance'' primarily by reference to various Federal environmental statutes.

Under section 103(a) of CERCLA, the person in charge of a vessel or facility from which a CERCLA hazardous substance has been released in an amount equal to or greater than its reportable quantity (RQ) must immediately notify the National Response Center (see 40 CFR 302.6). In addition, the person in charge of a facility from which a CERCLA hazardous substance has been released in an amount equal to or greater than its RQ must immediately notify State and local response authorities, as required by section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99–499), 42 U.S.C. 11001 et seq. (see 40 CFR 355.40). As established by EPA in an earlier RQ rulemaking (50 FR 13463, April 4, 1985), a 24-hour period is used for measuring whether an RQ or more of a hazardous substance has been released (i.e., only releases of an RQ or more within 24 hours need to be reported) (see 40 CFR 302.6(a)).

Section 102(b) of CERCLA establishes RQs at one pound for releases of hazardous substances, except for those substances for which RQs were established pursuant to section 311(b)(4) of the Clean Water Act (CWA). Section 102(a) of CERCLA authorizes EPA to adjust the RQs for all hazardous substances by regulation.

A major purpose of the section 103(a) notification requirements is to alert the appropriate government officials to releases of hazardous substances that may require a response to protect public health or welfare or the environment. EPA emphasizes that an RQ is merely a trigger for informing the government of a release so that the appropriate government personnel can evaluate the need for a response action and can undertake any necessary response action in a timely fashion. Federal personnel evaluate all reported releases, but in some cases will not initiate a response because the release of an RQ does not pose a hazard in all circumstances. Government personnel assess each reported release on a case-

by-case basis to determine the appropriate response action, if any.

CERCLA sections 102(a), 103, and 115 (the general rulemaking authority under CERCLA) together provide EPA with authority to grant administrative reporting exemptions. Such exemptions may be granted for releases of hazardous substances that pose little or no risk or to which a Federal response is infeasible or inappropriate. Requiring reports of such releases serves little or no useful purpose and could, instead, impose a significant burden on the Federal response system and on the persons responsible for notifying the Federal government of the release. Through such reporting exemptions, therefore, the Federal response system is able to more efficiently implement CERCLA and EPCRA and more effectively focus on reports of releases that are more likely to pose a significant hazard to human health and the environment.

B. Background of This Rulemaking

Radionuclides are CERCLA hazardous substances because they are listed as hazardous air pollutants under section 112 of the Clean Air Act. Radionuclides initially had a one-pound RQ as established by CERCLA section 102(b). EPA recognized that an RQ of one pound for radionuclides was not appropriate because radionuclides are not generally measured in units of pounds, and releases of much less than one pound of radionuclides may present a substantial threat to public health or welfare or the environment. On March 16, 1987, EPA published a Notice of Proposed Rulemaking (NPRM) to adjust the RQ for radionuclide releases (52 FR 8172), with the comment period ending on May 15, 1987. A total of 28 comment letters, totaling about 150 pages, were received. The comments received, together with the Agency's responses, are contained in ''Responses to Comments on the Notice of Proposed Rulemaking on the Adjustment of Reportable Quantities for Radionuclides'' (Responses to Comments), which is available for inspection in Docket Number 102RQ–RN located at the U.S. EPA CERCLA Docket Office (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202.

The Agency promulgated a final rule (54 FR 22524; May 24, 1989) to adjust the RQs for all (approximately 1,500) radionuclides. In preparing the final rule, EPA considered carefully all of the public comments submitted on the proposals made in the March 16, 1987 NPRM. The final rule granted four administrative exemptions from CERCLA section 103 and EPCRA section 304 reporting requirements based on those comments. In particular, the Agency exempted: (1) Releases of naturally occurring radionuclides from large generally undisturbed land holdings, such as golf courses and parks; (2) releases of radionuclides naturally occurring from the disturbance of large areas of land for purposes other than mining, such as farming or building construction; (3) releases of radionuclides from the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and (4) radionuclide releases to all media from coal and coal ash piles at utility and industrial facilities with coal-fired boilers.

Following the final rulemaking, the American Mining Congress (AMC), The Fertilizer Institute (TFI), and others challenged the rule in the United States Court of Appeals for the District of Columbia in *TFI* v. *EPA* (935 F2d 1303). In the litigation, AMC and TFI argued that EPA violated the Administrative Procedure Act (APA) by failing to provide notice and opportunity to comment on the proposed exemptions. The petitioners also argued that it was arbitrary and capricious for EPA to discriminate against mining by excluding it from the land disturbance exemption.

The Court found that the administrative reporting exemptions were improperly promulgated because EPA failed to provide adequate notice of, and opportunity for public comment on, those exemptions. The Court, however, left the four exemptions in place while the Agency undertakes a new round of notice and comment rulemaking.

In a proposed rule published on November 30, 1992 (57 FR 56726), the Agency complied with the Court's decision by providing notice of, and requesting comment on, the same four exemptions from CERCLA section 103 and EPCRA section 304 notification requirements that were promulgated in the 1989 final radionuclide RQ adjustment regulation. EPA requested that public comments on the November 30, 1992 proposal be submitted by January 29, 1993. In response to several requests for an extension to the comment period, and in the interest of allowing the public greater opportunity to evaluate the issues raised in the November 30, 1992 NPRM, EPA re-opened the public comment period for an additional 60 days beginning on March 5, 1993 (58 FR 12876). All background materials and public comments related to the November 30, 1992 proposal are available for inspection in Docket Number 102RQ–RN–1 located at the U.S. EPA CERCLA Docket Office (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202.

A total of 27 comment letters, totalling more than 750 pages, were received on the November 30, 1992 NPRM, including two after the initial deadline and one after the close of the second comment period. These comments raised a number of issues that the Agency cannot resolve without additional information and analysis. Chief among these issues are:

—Do radionuclide releases from land disturbance incidental to extraction activities at mines pose a greater risk than such releases from farming and construction?

—Do coal and coal ash piles at sites without coal-fired boilers (e.g., coal piles at mines, railroad stockyards, and steel mills, and coal ash disposed of in off-site landfills) pose a greater radiological threat than such piles at boiler sites?

—Is the government likely to respond to radionuclide releases from land disturbance incidental to extraction activities or coal and coal ash piles at non-boiler sites, and if so, what response realistically can be taken?

After reviewing the public comment letters and evaluating these issues, the Agency has decided to issue this supplemental proposal requesting information and comment on expanded reporting exemptions for certain radionuclide releases.

C. Consultation and Outreach Activities

EPA has undertaken a number of activities to involve interested stakeholders in considering and developing this supplemental proposal. The November 30, 1992 NPRM served as a basis for informing and soliciting comments from all parties on the original reporting exemptions for four categories of radionuclide releases. Comment letters from mining trade organizations, individual mining companies, electric power generators and trade organizations, railroads, steel manufacturers, private citizens, States, and others were received and served as the prime impetus for considering broader exemptions. At their request, EPA met with representatives of AMC and TFI on January 22, 1993 to hear their issues and concerns regarding the November 30, 1992 NPRM. Following this meeting and the receipt of requests submitted by commenters, EPA re-opened the public comment period for an additional 60 days to give

stakeholders ample opportunity to fully address their concerns. EPA then met again with representatives of AMC and TFI, at their request, on February 25, 1994 to receive further information and hear their views on the matter.

This supplemental proposal was developed based on careful consideration of all information and comments received since the reporting exemptions for certain radionuclide releases were originally promulgated. EPA will develop a final rule on this matter based on combined information and comments received on both the November 30, 1992, NPRM and this supplemental proposal.

II. Regulatory Reporting Exemptions

A. Proposed Exemptions

EPA is proposing to broaden the present reporting exemption for land disturbance activities to include land disturbance incidental to extraction activities at all mines except certain categories of mines that are likely to handle raw materials with ''elevated'' radionuclide concentrations. The particular types of mines that would *not* be within the scope of the reporting exemption would be uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mines. For the purpose of this preamble and proposed rule, mines that extract monazite (a particular kind of rare earth mineral) for its thorium content are considered rare earth mines. Releases of naturally occurring radionuclides from land disturbance at all other types of mines would be exempted from CERCLA section 103 and EPCRA section 304 reporting requirements. For the purpose of this proposal, land disturbance incidental to extraction activities would include land clearing, overburden removal and stockpiling, and excavating, handling, transporting, and storing ores and other raw materials. Beneficiation and mineral processing activities, including the associated handling, transporting, and storing of bulk materials, would not be included within the scope of the exemption because such operations may tend to (1) concentrate radionuclides in waste streams or other materials well above natural background levels, and/or (2) result in substantially greater releases than associated with land disturbance incidental to extraction (e.g., smokestack emissions from smelters may far exceed fugitive releases from mining). Additionally, this broader exemption would exempt radionuclide releases from the subject land disturbance activities only from CERCLA section 103 and EPCRA section 304 reporting requirements, not from CERCLA response or liability provisions.

EPA also is proposing to broaden the existing exemptions for coal and coal ash piles to include radionuclide releases to and from coal and coal ash piles at all kinds of sites, not just sites where there is a coal-fired boiler. As with the broader land disturbance exemption, this exemption for coal and coal ash piles would apply only to CERCLA section 103 and EPCRA section 304 reporting requirements, not to the related response or liability provisions. In the 1989 final radionuclide RQ adjustment rulemaking, the reporting exemptions for radionuclide releases to and from coal and coal ash piles at boiler sites were granted based both upon the risks posed and the appropriateness of a federal response to such releases under CERCLA (54 FR 22529, May 24, 1989). The exemptions were limited to only boiler sites because there was sufficient information available to quantify the radiological risks of coal and coal ash piles at boiler sites, but not other kinds of sites. As discussed in more detail below, EPA is proposing today that a quantitative risk assessment is not necessary to support a CERCLA and EPCRA reporting exemption, if threshold questions about the appropriateness and feasibility of a federal response can be answered by a simple determination that radionuclide releases are at or near natural background levels. While this approach would be a departure from the detailed risk analysis performed for coal and coal ash piles at boiler sites, it would in fact be consistent with the original exemptions granted for undisturbed land holdings and land disturbance activities such as farming and construction, which were based on a qualitative review of radionuclide releases relative to background rather than a quantitative risk assessment.

EPA is proposing these broader exemptions for three primary reasons, which apply equally to both land disturbance at certain mines and to coal and coal ash piles at non-boiler sites. First, the concentrations of naturally occurring radionuclides in the different materials that would be subject to the exemption (e.g., overburden and ores in the subject mining sectors, coal, and coal ash) are generally within the range of ''typical'' background concentrations in surficial rocks and soils in the U.S. Second, EPA believes that a CERCLA response, to the release otherwise reportable, would be very unlikely and possibly infeasible or inappropriate, because (1) the concentrations of materials being handled are at or near background, and (2) the resulting radionuclide releases are expected to be continuously low, spread over large areas, and widely dispersed in the environment. Third, the submission of individual notifications of these releases does not appear necessary for the government to assess whether a response action is needed, since the releases should be similarly low across all sites subject to the broader exemptions. As a result, the broader reporting exemptions are intended to allow EPA to focus its resources on the most serious releases and to protect public health and welfare and the environment more effectively and efficiently. At the same time, the exemptions would eliminate unnecessary reporting burdens on persons responsible for land disturbance at certain mine sites and any sites where coal or coal ash is stored or disposed.

With respect to radionuclide concentrations, EPA reviewed available data on the concentrations of naturally occurring radionuclides in surficial rocks and soils, as well as in various ores, coal, and coal ash. These data are presented in a Technical Background Document (''Technical Background Document Supporting Proposed Administrative Reporting Exemptions for Certain Releases of Radionuclides'') available for inspection in the U.S. EPA CERCLA Docket Office (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. As discussed in more detail in this document, typical concentrations of uranium-238, thorium-232, and their respective decay products in surficial rocks and soils in the U.S. hover around 1 picocurie per gram (pCi/g), although data developed by Myrick et al.[1] and other researchers show that uranium-238 concentrations may range from 0.12 to 3.8 pCi/g and thorium-232 concentrations may range from 0.10 to 3.4 pCi/g. Concentrations well above these typical values, however, are known to occur in certain hot spot areas of the country. For example, elevated radioactivity has been observed in association with certain faults and shear zones in the Reading Prong region of Pennsylvania, New York, and New Jersey, with uranium-238 concentrations as high as 27 pCi/g being reported in one ''profound case.''[2] Similarly, uranium-238 concentrations

[1] Myrick, T.E., B.A. Berven, and F.F. Haywood, ''Determination of Concentrations of Selected Radionuclides in Surface Soil in the U.S.,'' *Health Physics*, Vol. 45, No. 3 (September), pp. 631–642, 1983.

[2] Smith et al., ''Radon: A Profound Case,'' Pennsylvania Geology, Volume 18, No. 2, p. 1–7, 1987.

of 20 pCi/g or more have been observed in isolated spots in central Florida where phosphate deposits are exposed or near the land surface.

Available data indicate that the radionuclide concentrations in many mining materials, coal, and coal ash are generally within the range reported for typical background. For example, as shown in the Technical Background Document supporting this proposed rule, all available data on the uranium-238 and thorium-232 concentrations in iron ore, zinc ore, limestone, clay, and fluorspar are within the range reported by Myrick et al. for background surface soils. Ninety-eight percent of all coal samples analyzed in support of EPA's 1989 final airborne emission standards for radionuclides were also within the typical background range; concentrations significantly above this range (between 20 and 43 pCi/g of uranium-238) were observed in only two out of more than 3,700 coal samples analyzed. The radioactivity of coal ash is usually higher than that of coal (estimated to be about ten times higher). However, typical coal ashes are expected to contain 4.3 pCi/g of uranium-238 and 3.5 pCi/g of thorium-232, which are only slightly higher than the background range reported by Myrick et al. Bauxite (aluminum) ore also can contain radionuclide concentrations that are slightly elevated compared to normal background (around 6 pCi/g of thorium-232 and 7 pCi/g of uranium-238), but still relatively low compared to the levels that naturally exist in surface rocks and soils in some areas of the country.

Most data indicate that radionuclide concentrations in copper ores are at or near typical background levels. For example, a 1982 EPA study[3] reports that the uranium-238 concentration in copper ore ranges from 0.79 pCi/g at an underground mine to 2.2 pCi/g at a surface mine. The concentration of thorium-232 is reported to range from 0.62 pCi/g at an underground mine to 3.1 pCi/g at a surface mine. These levels fall within the background ranges for surficial soils as reported by Myrick et al. Elevated levels, however, have been observed in certain copper ores from Arizona, Utah, and New Mexico (see the Technical Background Document for more information). Based on current information and understanding, EPA believes that many of these elevated readings are probably reflective of a biased sampling program, and that large site averages are likely to be lower and approaching typical background levels. EPA requests more reliable and current data on the radionuclide concentrations in copper ores along with comments on how these ores should be treated for the purpose of the final reporting exemption rule. If found to be necessary based on data and other information submitted during the comment period, land disturbance incidental to copper mining could be grouped with those mining sectors that would not be granted a reporting exemption in the final rule.

The relatively low radionuclide concentrations reported for these different materials do not necessarily mean that the risks associated with radionuclide releases from many types of extraction sites and coal and coal ash piles are low or representative of undisturbed background. Indeed, many factors associated with the nature of the materials, management practices, and environmental and population characteristics at these sites would need to be studied in substantially more detail before it could be demonstrated that such risks are low in all or most cases. However, based on the relatively low radionuclide concentrations and the generally low-level, diffuse releases associated with the activities involved (land disturbance incidental to mining extraction; transporting, dumping, and storing coal; and transporting, dumping, storing, and disposing of coal ash), EPA believes that a CERCLA removal or remedial response to such radionuclide releases would very rarely, if ever, be necessary. Moreover, it is not clear that it would be feasible or practical to mount a CERCLA response at these types of sites, since the materials in question already have radionuclide concentrations that are likely to be at or near background and CERCLA responses would not normally clean up to below background levels. Any effort to remove the subject extraction materials, coal, or coal ash or cover these materials with soil, for example, would leave exposed soils that would have comparable concentrations of naturally occurring radionuclides. Therefore, EPA believes that reporting exemptions are warranted because continued evaluation and reporting of such radionuclide releases serves no useful purpose and, in fact, places an unnecessary burden on society. CERCLA response and liability provisions, however, would remain intact, enabling a response if a serious radiation threat is ever discovered by other means (e.g., Regional and State inspections) at an exempted mine or coal or coal ash pile.

This same logic does not necessarily hold for other types of extraction sites that handle ores and other raw materials that routinely have radionuclide concentrations well above background levels. As discussed in more detail in the Technical Background Document supporting this proposed rule (''Technical Background Document Supporting Proposed Administrative Reporting Exemptions for Certain Releases of Radionuclides,'' available for inspection in the Superfund Docket), the materials extracted at uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mines can have elevated concentrations of uranium-238 and/or thorium-232, along with their respective decay products. For example:

— Uranium ore has a uranium-238 concentration on the order of 280–560 pCi/g, although concentrations as high as 760 pCi/g are reported in the literature.

— Uranium-238 concentrations in phosphate rock range from 3–4 pCi/g in Tennessee to 20–60 pCi/g in other States (Florida, North Carolina, Idaho, Montana, Wyoming, and Utah). Concentrations as high as 270 pCi/g of uranium-238 have been reported.

—No data are available on the radionuclide concentrations in domestically mined tin ores. However, available data show that tin slag (produced from tin ore processing) contains 17–34 pCi/g of uranium-238. In addition, concentrated processed ores from Malaysia have been shown to contain 1,160 to 8,830 pCi/g of thorium-238.

— Some titanium ores (rutile and leucoxene) are reported to contain 12–14 pCi/g of uranium-238 and 1–10 pCi/g of thorium-232.

— Zircon (zirconium and hafnium ore) has been measured to contain 13 pCi/g of radium-226, a decay product of uranium-238 (which would be expected to be present at about the same concentration as radium-226). Measurements of radium-226 concentrations in processed ore concentrates from South Africa are as high as 200 pCi/g.

— Vanadium-bearing ores are commonly the same as uranium ores, because vanadium is often recovered as a coproduct from uranium ore. Ores recovered primarily for their vanadium content contain lower radionuclide concentrations than uranium ore, but still appear to contain uranium at levels higher than typical background (in the 30 to 58 pCi/g range).

—Monazite, an ore mined for its rare earth and thorium content, typically

[3] U.S. EPA, ''Emissions of Naturally Occurring Radioactivity from Aluminum and Copper Facilities,'' Office of Radiation Programs, Las Vegas Facility, NV, EPA–520/6–82–018, 1982.

contains 3,900 pCi/g of thorium and 1,800 pCi/g of uranium. Another rare earth ore, bastnasite, typically contains less than 97 pCi/g of thorium.

These concentrations generally are far above typical background concentrations expected in surface soils across most of the U.S. (i.e., uranium-238 ranging from 0.12 to 3.8 pCi/g, with an average of 1 pCi/g, and thorium-232 ranging from 0.10 to 3.4 pCi/g, with an average of 1 pCi/g). The concentrations in uranium ore, phosphate rock, and rare earth ores (including monazite mined for its thorium content) also are above the elevated background concentrations known to exist at or near the land surface in certain hot spot regions of the country, such as the Reading Prong region.

Just as the relatively low concentrations in iron, zinc, limestone, copper, and other mining sectors proposed to be exempted do not necessarily mean that the radiation risks are low, the relatively high concentrations encountered during uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mining do not necessarily mean that the radiation risks at these sites are high. To the contrary, EPA's risk analysis[4] supporting the National Emission Standards for Hazardous Air Pollutants (NESHAPs) shows that airborne emissions of radionuclides from surface uranium mines result in a maximally exposed individual risk of fatal cancer of 5×10^{-5}. Furthermore, U.S. Nuclear Regulatory Commission licenses control radionuclide releases to all media from in-situ uranium mines and an EPA NESHAP limits radon emissions to the air from underground uranium mines (40 CFR part 61, subpart B); as a consequence, releases in compliance with these limits may be federally permitted under CERCLA and thus excluded from CERCLA reporting and liability requirements.

EPA believes, however, that the elevated radionuclide concentrations in raw materials handled at uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mines distinguish such materials from the soil and rock disturbed at the vast majority of farming and construction sites across the U.S. When these elevated radionuclide concentrations are coupled with other factors that tend to distinguish mining from farming and construction—generally much larger sites, larger quantities of earthen materials moved and stockpiled, longer-term and more frequent land disturbances at a given site, and frequently substantially greater depths uncovered (see the Technical Background Document for more detail)—EPA believes there is a reasonable basis for not including uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mining in the reporting exemption for land disturbance activities. Again, this does not mean that the radiation risks at such mines are necessarily high, but only that, in EPA's judgment, further evaluation would be required before it can be concluded with a sufficient degree of confidence that such risks are indeed low and that a government response would be unwarranted or infeasible.

Commenters wishing to support exemptions for uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mining and wishing to obtain a reporting exemption are requested to submit particular kinds of information along with their comments on this proposal. Data and analyses regarding the radionuclide concentrations in ores and other raw materials handled in these mining sectors relative to the undisturbed, naturally occurring levels at or near the land surface around the mine sites would be especially helpful. If such data and analyses can demonstrate that the radionuclide concentrations in the ores and raw materials being handled are generally within the normal background range for surficial rocks and soils in the same area, a basis for broadening the reporting exemptions further to include these mining sectors may exist. If such a demonstration cannot be made, EPA requests information on special circumstances that would make a CERCLA response to radionuclide releases at these mine sites very unlikely, infeasible, and/or inappropriate.

These special circumstances could include a demonstration that the radiation exposures and risks, for all radionuclides and all possible exposure pathways (not just radon and not just the air pathway), are low (e.g., 10^{-4} or lower lifetime cancer risk) for reasonably maximally exposed individuals, including closest offsite residents and onsite workers. Any analysis of risks should focus either on all sites within a given mining sector or on a model site that is demonstrated to conservatively represent other sites. Anecdotal information or basic assertions regarding independent factors that might influence risk, such as generalized statements that mines are commonly located in remote areas or that radon released from mines disperses rapidly and causes no incremental exposure above natural background radiation, are not convincing unless supported by data and an integrated risk analysis. Moreover, EPA believes that broad comparisons of the cumulative amount of soil moved or the cumulative amount of radon released at all mines versus all farming and construction sites are immaterial, since the need for a CERCLA response hinges on the particular conditions at any individual site, not all like sites in aggregate.

Other special circumstances that might argue for additional reporting exemptions include a demonstration that a CERCLA response is infeasible or inappropriate at a particular type of mine. With respect to this issue, the Agency wishes to point out that appropriate CERCLA responses at mines can fall well short of covering the entire site with soil or water, which would defeat the very purpose of extraction. For example, it may be feasible or appropriate to cover certain waste piles or inactive mine areas with soil or water. Many other types of response actions have actually been taken at mine sites on the National Priorities List, although not in response to releases of radionuclides. These actions have included measures to control and treat mine water, diverting and controlling stormwater runoff, dumping materials in areas engineered for waste disposal, isolating contaminated areas with fences and signs, providing nearby communities with alternate sources of drinking water, excavating and removing contaminated soil, and injecting concrete into inactive underground mine workings. If these or other responses to radionuclide releases at mines would be infeasible or inappropriate, EPA requests information explaining why.

B. Alternative Exemptions

As outlined below, EPA is considering two alternative approaches for broadening the existing reporting exemptions for certain radionuclide releases. EPA solicits comments and data to assist in consideration of these alternatives with regard to differences in protection of public health and welfare and the environment. All comments on these alternatives, together with comments on the proposed approach described above, will be considered in developing the final rule.

[4] U.S. EPA, ''Risk Assessments, Environmental Impact Statement, NESHAPS for Radionuclides, Background Information Document—Volume 2,'' Office of Radiation Programs, EPA/520/1–89–006–1, Chapter 12, 1989.

1. Alternative 1: Exempt All Extraction and Coal and Coal Ash Piles

Under one alternative, EPA would exempt from CERCLA section 103 and EPCRA section 304 reporting requirements radionuclide releases from land disturbance incidental to extraction activities at all mines, as well as coal and coal ash piles at all kinds of sites. As in the proposed exemptions, this alternative would not exempt radionuclide releases associated with beneficiation or processing operations that may be located at mine sites, nor would it exempt the disposal of high concentration materials, for example, in inactive mines.

This alternative recognizes that reporting may not serve a useful purpose if a CERCLA response would be infeasible or inappropriate and if a response would rarely be undertaken. A broad exemption would allow the Agency to focus its resources on the most serious releases, and this alternative could result in a greater reduction in reporting burden for both industry and government and a greater cost savings compared to the proposed exemptions.

Another factor possibly in favor of this approach is that individual release reports and responses under CERCLA may not be the most appropriate Federal regulatory response to radionuclide releases from mines. EPA and other government agencies are already aware that all mines in the U.S. are continuously releasing radionuclides to the environment, usually in relatively low concentrations. Rather than requiring release reports and evaluating the need for response on a facility-by-facility basis, it may be more effective for the Agency to study radiation threats at mines categorically and, if found to be necessary, develop more stringent regulations under other statutes. Such investigations focusing primarily on mining and mineral processing wastes are already underway within EPA, including the Office of Radiation and Indoor Air's study of diffuse naturally occurring radioactive material (NORM) wastes and the Office of Solid Waste's evaluation of extraction and beneficiation wastes under the Resource Conservation and Recovery Act. Under this alternative, CERCLA response and liability provisions would remain intact to respond to any serious radiation threats at mine sites that are not being adequately controlled under the existing network of regulations, but release reporting requirements would be eliminated in deference to these or other studies designed to address radiation threats at mines more categorically.

Compared to the proposed exemptions, this alternative may be less successful in contributing to CERCLA's overall goal of protecting public health and welfare and the environment. This could be particularly true at the few categories of mines discussed above that are believed to handle materials with elevated concentrations of radionuclides.

To assist in the evaluation of this alternative, EPA specifically requests information and comment on the need to obtain reports of radionuclide releases from uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mines (including monazite mined for its thorium content), which would have to be submitted under the proposed exemptions but would not be required under this alternative. Data and analyses regarding the magnitude and extent of radiation threats (if any) at these types of mines, as well as the feasibility and appropriateness of a CERCLA response, would be particularly helpful in this regard. Information and comment on the degree to which other existing regulations and programs adequately control any radiation threats at these types of mines also would assist in evaluating the need for CERCLA section 103 and EPCRA section 304 reporting.

2. Alternative 2: Exempt All Land Disturbance Incidental to Extraction During Mining Activities and All Piles of Diffuse Naturally Occurring Radioactive Material Below a Concentration Cutoff

Under another alternative, EPA would eliminate the requirement to report releases of radionuclides from land disturbance incidental to extraction and releases of radionuclides to and from all piles of diffuse naturally occurring radioactive material (including extraction, beneficiation, and mineral processing materials and wastes as well as coal and coal ash piles at any kind of site), as long as the concentration of naturally occurring radionuclides was below a certain concentration threshold. Persons in charge of sites where such materials are disturbed and/or stockpiled would have to determine the radionuclide concentration of the material that they move or handle. If the concentration fell below the pre-established threshold, it would not be necessary to determine total quantities of radionuclides released for comparison with the RQs (i.e., no release report would be required, regardless of the total quantity released). However, if the concentration exceeded the threshold, it then would be necessary to determine quantities released and to submit a report if the RQs were met or exceeded.

EPA is considering a concentration cutoff because there may be very little benefit in requiring reports when more than an RQ of naturally occurring radionuclides is released from diffuse sources (such as land clearing, overburden removal and stockpiling, and excavating, handling, transporting, dumping, and storing ores, beneficiation or mineral processing materials and wastes, coal, and coal ash) that continuously emit radionuclides in low concentrations spread over large areas. In developing the adjusted radionuclide RQs, the Agency determined quantities that may result in unacceptable human exposures under a conservative hypothetical scenario in which radionuclides are released from a ground-level, point source (54 FR 22524, May 24, 1989). In essence, this assumes that radionuclides are released in a concentrated form and unable to undergo substantial dilution as they migrate to a point where a person might be exposed. This conservative approach was taken to develop adjusted RQs that would ensure timely reporting in most circumstances. EPA recognizes, however, that the RQs based on this scenario may be unnecessarily low when radionuclides are actually released in more dilute form from a large area source.

In the radionuclide RQ adjustment NPRM (52 FR 8182, March 16, 1987), EPA requested comments on such a concentration cutoff concept in general and, in particular, on the use of 0.002 microcuries per gram (or 2,000 pCi/g) established by the Department of Transportation (DOT) for the purpose of defining radioactive material in hazardous material transport regulations (49 CFR parts 171–177). All commenters who addressed this issue (slightly over half of all commenters) favored a concentration cutoff. However, EPA decided not to pursue the issue further through the radionuclide RQ adjustment rulemaking primarily because: (1) There was not a pre-existing concentration threshold that was widely believed to be acceptable for all possible radionuclide release scenarios (the DOT level of 2,000 pCi/g was generally regarded as too high for many release and exposure situations); (2) EPA did not have a sufficient technical basis at that time for determining an appropriate concentration cutoff; and (3) an RQ adjustment regulation was not viewed as the appropriate forum for conducting the complex analysis needed to determine such a level (54 FR 22528, May 24, 1989).

Nevertheless, after reviewing public comments on the November 30, 1992, NPRM on administrative reporting exemptions, EPA would like to revisit the idea of a concentration cutoff to be applied specifically to land disturbance and piles of diffuse naturally occurring radioactive material (rather than all possible radionuclide releases, as originally envisioned in the radionuclide RQ adjustment NPRM). In particular, EPA requests information and comment on two major issues associated with such an approach. First, what would be an appropriate concentration cutoff level (or levels)? EPA believes that such a level would best be expressed as some increment to natural background. Second, what would be the best way to determine natural background levels?

With regard to the question of an appropriate level, 5 pCi/g of radium-226 above background is one possibility. This is EPA's standard in 40 CFR part 192 for the cleanup of surface soil contaminated with residual radioactive material from inactive uranium processing sites (i.e., uranium mill tailings). As stated in 40 CFR 192.12, remedial actions at such sites shall be conducted to provide reasonable assurance that the concentration of radium-226 in land averaged over any area of 100 square meters shall not exceed the background level by more than 5 pCi/g, averaged over the first 15 centimeters of soil below the surface. In promulgating this cleanup standard, the Agency stated:

> The purpose of this standard is to limit the risk from inhalation of radon decay products in houses built on land contaminated with tailings, and to limit gamma radiation exposure of people using contaminated land. * * * Because the risks from soils contaminated with radium-226 are potentially so great, the proposed standard was set at a level as close to background as we believed reasonable, taking into consideration the difficulties in measuring this level and distinguishing it from natural background. (48 FR 600, January 5, 1983)

EPA believes this underlying purpose and rationale make the 5 pCi/g standard a candidate for possible use as a lower-bound concentration cutoff for the purpose of reporting exemptions for land disturbance and piles of diffuse naturally occurring radioactive material, such as extraction, beneficiation, and mineral processing materials and wastes, as well as coal and coal ash.

EPA recognizes, however, that this number would have some limitations if applied in this context. Most notably, the standard was developed based on conditions that represent an inactive uranium mill tailings site, which would not necessarily represent the conditions at other kinds of sites where naturally occurring radioactive materials are disturbed and handled (e.g., there may be differences in the physical properties and radionuclide concentrations of the materials being handled, as well as in potential human exposure scenarios). In addition, the 40 CFR part 192 standard was developed using risk assessment techniques and standards in place during the early 1980s. More recently, EPA has established guidelines for determining remediation goals for radioactively contaminated soils at Superfund sites.[5] Depending on the particular conditions at a site, use of these more recent guidelines may result in a cleanup target that differs from 5 pCi/g of radium-226 above background.

Nevertheless, these potential limitations may not seriously undermine the utility of 5 pCi/g above background as an administrative cutoff level for the purpose of establishing CERCLA section 103 and EPCRA section 304 reporting exemptions. If this approach is adopted, EPA could establish this level as an interim cutoff pending the development of a better value or set of values. As part of a separate rulemaking, the Agency is presently developing new cleanup levels for radioactively contaminated soil and ground water. Once these or other levels are finalized, and if they are considered appropriate for the purpose of CERCLA and EPCRA reporting exemptions, they could be adopted as updated concentration cutoffs.

The Agency specifically requests information and comment on the appropriateness of using 5 pCi/g of radium-226 above background as a concentration cutoff for the purpose of establishing CERCLA section 103 and EPCRA section 304 reporting exemptions for land disturbance and piles of diffuse naturally occurring radioactive material. EPA also requests proposals and supporting rationale for any alternative values. Major issues of interest that have a bearing on the appropriateness of any candidate value include its level of protectiveness, the ability to detect the value and distinguish it from natural background, and consistency with other existing regulations and controls.

With regard to the question of determining background, EPA believes that it would be appropriate to use a concentration that represents undisturbed background radioactivity in surface rocks and soils (to which the public is already exposed). EPA presently is considering three alternatives, but invites information and comment on the practicality and appropriateness of any other possibilities. The three alternatives presently being considered are: (1) Using site-specific values; (2) establishing a single value for the nation as a whole to be used when site-specific data are not available, or (3) establishing regional or State-specific values to be used when site-specific data are not available.

The first alternative, using site-specific values, recognizes the variability in background radioactivity that exists across different sites and the difficulties in determining representative, undisturbed background values. Under this alternative, reporting would depend on site-specific background levels of radionuclides in surface soils. Existing and emerging EPA guidance for determining background concentrations of radionuclides could be used to establish these levels. For example, EPA's Guidance for Data Useability in Risk Assessment[6] provides general guidance on how to discriminate radioactive site contamination from background. Chapter 10 of the Agency's Risk Assessment Guidance for Superfund[7] also discusses general issues concerning the determination of background concentrations of radionuclides. In cooperation with the Department of Energy, Department of Defense, and Nuclear Regulatory Commission, EPA is in the process of developing more specific guidelines for surveying radioactively contaminated sites and determining radiological background levels (as part of the Multi-Agency Manual for Environmental Radiological Surveys). Once completed, these guidelines could be adopted for use in determining background levels under the RQ program.

Under the second and third alternatives, EPA would establish default values that site owners or operators would use in the absence of reliable site-specific data. If either of these alternatives were adopted, the Agency could use the background

[5] U.S. EPA, ''Risk Assessment Guidance for Superfund: Volume I—Human Health Evaluation Manual (Part B, Development of Risk-based Preliminary Remediation Goals),'' Interim, Office of Emergency and Remedial Response, Publication 9285.7–01B, December 1991.

[6] U.S. EPA, ''Guidance for Data Useability in Risk Assessment,'' Part A (Publication 9285.7–09A, April 1992) and Part B (Publication 9285.7–09B, May 1992), Office of Emergency and Remedial Response. For example, see Section 6.2 of Part B.

[7] U.S. EPA, ''Risk Assessment Guidance for Superfund, Volume I—Human Health Evaluation Manual (Part A), Interim Final,'' Office of Emergency and Remedial Response, EPA/540/1–89/002, December 1989. For example, see Sections 10.3.4 and 10.3.7.

concentrations of radium-226 developed by Myrick et al. (1983), shown in Table 1. If a single default value were adopted for the nation as a whole, EPA could adopt either a central value (the arithmetic or geometric mean of approximately 1 pCi/g of radium-226) or the maximum value reported for all samples analyzed (4.2 pCi/g). Adding a 5 pCi/g concentration cutoff to these background values would result in an overall threshold for reporting purposes of either 6 pCi/g or 9.2 pCi/g of radium-226. Alternatively, site owners or operators could use the background values for their specific State (again, central or upper end values are candidates). If a site were located in a State not covered by the Myrick et al. data, background values could be estimated by averaging values reported for adjacent States.

Compared to the proposal and the first alternative discussed above, this alternative would result in more uniform treatment of diffuse naturally occurring radioactive material. The distinction created above between land disturbance incidental to extraction and other activities that may occur at extraction, beneficiation, and/or mineral processing sites would be lost. Instead, the excavation, movement, dumping, stockpiling, and disposal of any kind of diffuse naturally occurring radioactive material handled at any kind of site would qualify for a reporting exemption if it was below the concentration cutoff.

TABLE 1.—STATE BACKGROUND CONCENTRATIONS OF RADIUM-226 IN SURFACE SOIL

State	# of Samples analyzed	Range of values (pCi/g)	Arithmetic mean (pCi/g)	Geometric mean (pCi/g)
Alabama	8	0.47–1.4	0.82	0.77
Alaska	6	0.43–0.92	0.65	0.64
Arizona	6	0.23–2.0	0.95	0.70
California	3	0.24–1.3	0.77	0.62
Colorado	32	0.48–3.4	1.4	1.3
Delaware	2	1.1–1.2	1.2	1.2
Florida	11	0.25–2.3	0.84	0.67
Georgia	9	0.46–1.6	0.88	0.81
Idaho	12	0.64–1.6	1.1	1.1
Illinois	7	0.65–1.2	0.97	0.95
Indiana	2	1.0–1.1	1.1	1.1
Kansas	6	0.34–1.4	0.97	0.86
Kentucky	13	0.81–4.2	1.5	1.4
Louisiana	2	0.58–0.84	0.71	0.70
Maryland	6	0.49–1.2	0.72	0.69
Michigan	10	0.46–2.0	1.1	0.95
Mississippi	3	0.77–1.6	1.2	1.2
Missouri	10	0.31–1.4	1.1	1.0
Nevada	6	0.89–2.0	1.5	1.5
New Jersey	24	0.24–1.4	0.87	0.78
New Mexico	13	0.72–2.7	1.5	1.5
New York	6	0.48–1.2	0.85	0.81
North Carolina	8	0.48–1.2	0.78	0.74
Ohio	12	0.81–2.5	1.5	1.4
Oregon	8	0.24–2.1	0.82	0.68
Pennsylvania	33	0.46–2.4	1.2	1.1
Tennessee	10	0.65–1.4	1.1	1.0
Texas	10	0.54–1.4	0.89	0.85
Utah	32	0.53–1.9	1.3	1.2
Virginia	13	0.60–1.1	0.85	0.83
West Virginia	11	0.78–1.6	1.3	1.2
Wyoming	13	0.65–1.7	1.0	1.0
U.S. Average	327	0.23–4.2	1.1	1.0

Source: Myrick, T.E., B.A. Berven, and F.F. Haywood, ''Determination of Concentrations of Selected Radionuclides in Surface Soil in the U.S.,'' *Health Physics*, Vol. 45, No. 3 (September), pp. 631–642, 1983.

EPA also believes that the use of such a concentration cutoff would be more protective than the proposed exemptions. Under this approach, all sites excavating and/or handling diffuse naturally occurring radioactive materials (e.g., all mining, beneficiation, and mineral processing sites and all sites that handle coal and coal ash) would be required to evaluate the radionuclide concentration of those materials. Release reports then could be required not only from those sites in mining sectors that commonly extract and handle materials with elevated radionuclide concentrations, as in the proposed exemptions, but also other types of mining sites that happen to be extracting and handling raw materials with unusually high concentrations of radionuclides. At the same time, EPA recognizes that there may be instances when continued releases below some concentration cutoff (and thus exempt from CERCLA section 103 and EPCRA section 304 reporting requirements) could pose a threat, by resulting in the long-term build up of elevated levels of radioactivity in the environment.

Finally, the Agency recognizes that this approach would impose a greater burden on individual site owners or operators than the proposed approach, since facilities would have to determine concentrations relative to background, as well as releases relative to the RQs if the concentration cutoff is exceeded. However, determining radionuclide concentrations of the materials being extracted and/or handled at a site should be much simpler than estimating total releases into the environment (concentrations likely would be determined anyway when estimating releases relative to the RQs), and burdens associated with determining background levels can be reduced

substantially through the use of national or regional default values.

III. Regulatory Analyses

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The 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.

The Agency has determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

These proposed exemptions will result in an estimated net cost savings to the regulated community of $455,000 annually, as demonstrated by an economic analysis (Estimated Economic Effects of Administrative Reporting Exemptions for Certain Releases of Radionuclides) performed by the Agency, available for inspection in the U.S. EPA CERCLA Docket Office (Mail Code 5201G), Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a ''significant impact on a substantial number of small entities.'' Because this proposed rule would grant reporting relief to certain sources of radionuclide releases, the rule would not result in a significant impact on a substantial number of small entities. EPA certifies that this proposed rule is not likely to have a significant impact on a substantial number of small entities and, therefore, that a Regulatory Flexibility Analysis is not necessary.

C. Paperwork Reduction Act

Because this rule provides an exemption from CERCLA section 103 and EPCRA section 304 reporting requirements for certain radionuclide releases, there are no unique reporting or recordkeeping provisions that require approval from OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*

Approval has previously been granted by OMB for other release reporting requirements referenced in this rule: collection of information pursuant to CERCLA section 103 for releases of hazardous substances equal to or greater than their RQs (OMB control # 2050–0046).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule in which the estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, will be $100 million or more in any one year. Under section 205 of this Act, EPA must select the most cost-effective and least-burdensome alternative that achieves the objective of the rule and that is consistent with statutory requirements. Section 203 of the Act requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

List of Subjects

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Pesticides and pests, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 355

Air pollution control, Chemical accident prevention, Chemical emergency preparedness, Chemicals, Community emergency response plan, Community right-to-know, Contingency planning, Disaster assistance, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous substances, Intergovernmental relations, Natural resources, Penalties, Reportable quantity, Reporting and recordkeeping requirements, Threshold planning quantity, Water pollution control, Water supply.

Dated: July 25, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, it is proposed to amend title 40, chapter I of the Code of Federal Regulations as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

2. Section 302.6 is amended by revising paragraph (c) to read as follows:

§ 302.6 Notification requirements.

* * * * *

(c) The following categories of releases are exempt from the notification requirements of this section:

(1) Releases of those radionuclides that occur naturally in the soil from land holdings such as parks, golf courses, or other large tracts of land;

(2) Releases of naturally occurring radionuclides from land disturbance activities, including farming, construction, and land disturbance incidental to extraction activities, except that which occurs at uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mines (including monazite mined for its thorium content);

(3) Releases of radionuclides from the dumping of coal and coal ash; and

(4) Releases of radionuclides from coal and coal ash piles.

* * * * *

PART 355—EMERGENCY PLANNING AND NOTIFICATION

3. The authority citation for part 355 continues to read as follows:

Authority: 42 U.S.C. 11002, 11004, and 11048.

4. Section 355.40 is amended by revising paragraph (a)(2)(vi) to read as follows:

§ 355.40 Emergency release notification.

(a) * * *

(2) * * *

(vi) Any radionuclide release which occurs:

(A) Naturally in soil from land holdings such as parks, golf courses, or other large tracts of land;

(B) Naturally from land disturbance activities, including farming, construction, and land disturbance incidental to extraction activities, except that which occurs at uranium, phosphate, tin, titanium, zirconium, hafnium, vanadium, and rare earth mines (including monazite mined for its thorium content);

(C) From the dumping of coal and coal ash; and

(D) From coal and coal ash piles.

* * * * *

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