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Contents

Federal Register

Vol. 62, No. 247

Wednesday, December 24, 1997

Agency for International Development
NOTICES
Meetings:
International Food and Agricultural Development Board, 67405–67406

Agency for Toxic Substances and Disease Registry
NOTICES
Superfund program:
Hazardous substances priority list (toxicological profiles), 67375–67377

Agricultural Marketing Service
PROPOSED RULES
Spearmint oil produced in Far West, 67297–67300
NOTICES
Apples, canned; grade standards, 67326–67327
Grants and cooperative agreements; availability, etc.:
Federal-State marketing improvement program, 67327

Agricultural Research Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Biotechnology risk assessment research program, 67488–67490

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Cooperative State Research, Education, and Extension Service
See Farm Service Agency
See Forest Service
See Rural Business-Cooperative Service
See Rural Housing Service
See Rural Utilities Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67325–67326

Air Force Department
PROPOSED RULES
Environmental impact analysis process, 67305–67320
NOTICES
Commercial activities performance (OMB A-76); cost comparison studies, 67348–67350

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
Americans with Disabilities Act; implementation:
Outdoor Developed Areas Accessibility Guidelines Regulatory Negotiation Committee—Meetings, 67320
NOTICES
Meetings:
Access Board, 67332

Assassination Records Review Board
NOTICES
Formal determinations on records release, 67332–67344

Centers for Disease Control and Prevention
NOTICES
Meetings:
National Vaccine Advisory Committee, 67377

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
New York, 67344
Pennsylvania, 67344
Wyoming, 67344–67345

Coast Guard
RULES
Coast Guard Authorization Act of 1996; implementation:
International management code for safe operation of ships and pollution prevention, 67492–67515
Vessel inspection alternatives:
Classification procedures, 67526–67537

Commerce Department
See International Trade Administration

Cooperative State Research, Education, and Extension Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Biotechnology risk assessment research program, 67488–67490

Defense Department
See Air Force Department
See Defense Special Weapons Agency
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67347–67348

Defense Special Weapons Agency
RULES
Privacy Act; implementation, 67291–67292

Drug Enforcement Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67407–67409

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
International research and studies program; annual report publication, 67540–67541
Meetings:
Indian Education National Advisory Council, 67350–67351
National Institute on Disability and Rehabilitation Research, 67544

Energy Department
See Federal Energy Regulatory Commission
RULES
Privacy Act: implementation, 67518–67519

NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board—
Paducah Gaseous Diffusion Plant, KY, 67351
Secretary of Energy Advisory Board, 67351–67352
Privacy Act:
Systems of records, 67520–67523

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 67320–67323
Toxic substances:
Testing requirements—
Biphenyl, etc., 67466–67485
Water pollution; effluent guidelines for point source categories:
Industrial laundries industry; hearing, 67323–67324
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67358–67360
Clean Air Act:
Citizens suits; proposed settlements—
Chemical Manufacturers Association et al., 67360–67361
Environmental statements; availability, etc.:
Agency statements—
Weekly receipts, 67361
Meetings:
Aquatic life and wildlife; 2,3,7,8-TCDD toxicity equivalency factors application potential; technical workshop, 67361–67362
Drake Chemical Superfund Site Incinerator, PA; risk issues; technical workshop, 67362
Environmental Financial Advisory Board, 67362–67363
National Drinking Water Advisory Council, 67363
Science Advisory Board, 67363–67365
Pesticide registration, cancellation, etc.:
Triforine Technical, etc., 67365–67366

Executive Office of the President
See Presidential Documents

Farm Service Agency
RULES
Organization, functions, and authority delegations:
Rural Development Mission Area, 67258–67265

Federal Aviation Administration
RULES
Class D airspace, 67265–67266
Class E airspace, 67266–67268
Restricted areas, 67268–67269
PROPOSED RULES
Airworthiness directives:
British Aerospace, 67304
SOCATA-Groupe AEROSPATIALE, 67300–67302
NOTICES
Exemption petitions; summary and disposition, 67428

Federal Communications Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67366
Common carrier services:
Telecommunications relay services; State certification; applications accepted, 67366–67367
Meetings:
Emergency Alert System National Advisory Committee, 67367

Federal Election Commission
PROPOSED RULES
Reports by political committees:
Campaign-related receipts and disbursements; recording, reporting, and report filing
Hearing, 67300

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
National Gas & Electric L.P. et al., 67355–67356
Ogden Energy China (Alpha) Ltd. et al., 67356–67358
Environmental statements; availability, etc.:
Allegheny Hydro No. 8 & 9 LP et al., 67358
Applications, hearings, determinations, etc.:
CNG Transmission Corp., 67352
KN Interstate Gas Transmission Co., 67352–67353
Koch Gateway Pipeline Co., 67353
Mississippi River Transmission Corp., 67353–67354
Panhandle Eastern Pipe Line Co., 67354
Power Authority of State of New York; correction, 67354
Tennessee Gas Pipeline Co., 67354
Trailblazer Pipeline Co., 67355

Federal Maritime Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67367–67368
Agreements filed, etc., 67368–67369
Complaints filed:
Trade Net, Inc., 67369
Small Business Regulatory Enforcement Fairness Act; implementation, 67369–67372

Federal Railroad Administration
NOTICES
Traffic control systems; discontinuance or modification:
SOO Line Railroad Co. et al., 67429–67430

Federal Trade Commission
NOTICES
Prohibited trade practices:
Honeywell Inc., 67372–67373

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67431

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Topeka shiner, 67324
NOTICES
Endangered and threatened species:
Conservation agreements—
Spotted frog in Utah, 67398

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Decoquinate and bacitracin zinc with roxarsone, 67273
Medical devices:
Medical device corrections and removals; reporting and recordkeeping requirements
Effective date stay, 67274
Organization, functions, and authority delegations:
Center for Devices and Radiological Health, 67270–67273
NOTICES
Harmonisation International Conference; guidelines availability:
Pharmaceuticals—
Q3C impurities; residual solvents, 67377–67388

Forest Service
NOTICES
Appealable decisions; legal notice:
Intermountain region, 67327–67329

General Accounting Office
NOTICES
Standards for internal control in Federal government; document availability, 67373–67374

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
See National Institutes of Health
NOTICES
Grant and cooperative agreement awards:
National Academy of Sciences, 67374
Reports and guidance documents; availability, etc.:
Dietary supplement labeling policy, 67374–67375

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67388–67389
Reporting and recordkeeping requirements, 67389–67392

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 67397–67398

Indian Affairs Bureau
NOTICES
Indian tribes, acknowledgment of existence determinations, etc.:
Mobile-Washington County Band of Choctaw Indians of South Alabama, 67398–67400

Inspector General Office, Health and Human Services Department
NOTICES
Social Security Act:
Permissive exclusion authority; implementation criteria, 67392–67394

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service

Internal Revenue Service
PROPOSED RULES
Employment taxes and collection of income taxes at source:
FICA and FUTA taxation of amounts under employee benefit plans, 67304–67305

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Cut-to-length carbon steel plate from—
Brazil, 67345
Roller chain, other than bicycle, from—
Japan, 67345–67347

International Trade Commission
NOTICES
Import investigations:
Extruded rubber thread from—
Malaysia, 67406–67407

Justice Department
See Drug Enforcement Administration
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67409–67410

Labor Department
See Labor Statistics Bureau
See Mine Safety and Health Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67410

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67410–67411

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Ward Valley, San Bernardino County, CA; tritium and related materials testing, 67400
Meetings:
Resource advisory councils—
Arizona, 67400–67401
Opening of public lands:
Wyoming, 67401
Recreation management restrictions, etc.:
Forks of Butte Creek Special Area, CA; recreational mineral collection; fee adjustment, 67401
Resource management plans, etc.:
Arizona Strip District, AZ, 67401–67402
Farmington District, NM, 67402–67405

Minerals Management Service
RULES
Outer Continental Shelf; geological and geophysical explorations, 67278–67291

Mine Safety and Health Administration
NOTICES
Mining products; testing, evaluation, and approval; user adjustment fees, 67411–67413

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 67430–67431

National Institutes of Health
NOTICES
Meetings:
National Institute of Allergy and Infectious Diseases, 67394–67395
National Institute of Environmental Health Sciences, 67394
National Institute on Aging, 67394
National Institute on Deafness and Other Communication Disorders, 67395–67396
Scientific Review Center special emphasis panels, 67396

National Park Service
NOTICES
Meetings:
Glacier Bay National Park and Preserve, AK; commercial fishing proposal; workshops, 67405

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 67416
Safety analysis and evaluation reports; availability, etc.:
Hydro Resources, Inc., 67416–67417
Applications, hearings, determinations, etc.:
Atlantic City Electric Co., 67413–67414
Atlantic City Electric Co. et al., 67414–67415
Conam Inspection, Inc., 67416

Nuclear Waste Technical Review Board
NOTICES
Meetings, 67417–67418

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67418–67420

Personnel Management Office
RULES
Prevailing rate systems, 67257–67258
PROPOSED RULES
Retirement, health benefits, and life insurance, Federal employees:
Decennial census employees with dual appointments; continuity of coverage requirements; exemption, 67295–67296
NOTICES
Personnel management demonstration projects:
Commerce Department—
Alternative personnel management system, 67434–67463

Presidential Documents
PROCLAMATIONS
Government agencies and employees:
Secretary of Commerce; delegation of authority (Memorandum of December 19, 1997), 67547

Public Debt Bureau
See Fiscal Service

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Research and Special Programs Administration
RULES
Pipeline safety:
Drug use and alcohol misuse control in natural gas, liquefied natural gas, and hazardous pipeline operations, 67293–67294
Facility response plan submissions; reporting cycle changes, 67292–67293

Rural Business-Cooperative Service
RULES
Organization, functions, and authority delegations:
Rural Development Mission Area, 67258–67265

Rural Housing Service
RULES
Organization, functions, and authority delegations:
Rural Development Mission Area, 67258–67265
NOTICES
Grants and cooperative agreements; availability, etc.:
Housing preservation program, 67329–67330

Rural Utilities Service
RULES
Organization, functions, and authority delegations:
Rural Development Mission Area, 67258–67265
NOTICES
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1998; implementation:
Interest rates for 1998 FY RUS cost-of-money loans, etc., 67330–67331
Grant and cooperative agreement awards:
Bristol Bay Area Health Corp. et al., 67331–67332

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67419–67420
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 67422
MBS Clearing Corp., 67422–67423
National Association of Securities Dealers, Inc., 67423–67425
Philadelphia Stock Exchange, Inc., 67425–67426
Applications, hearings, determinations, etc.:
Merrill Lynch & Co., Inc., et al., 67420–67422

Small Business Administration
NOTICES
Meetings; district and regional advisory councils:
Florida, 67427
Massachusetts, 67427

Social Security Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67427

State Department
RULES
International traffic in arms regulations:
Miscellaneous amendments, 67274–67278
NOTICES
Meetings:
Private International Law Advisory Committee, 67427–67428

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration

Treasury Department
See Fiscal Service
See Internal Revenue Service

United States Information Agency
NOTICES
Exchange visitor program:
Skills list
Czech Republic; removal, 67431–67432
Voice of America programs and program services; private sector partners, joint ventures, and corporate underwriting, 67432

Separate Parts In This Issue

Part II
Office of Personnel Management, 67434–67463

Part III
Environmental Protection Agency, 67466–67485

Part IV
Department of Agriculture, Agricultural Research Service, 67488–67490

Part V
Department of Transportation, Coast Guard, 67492–67515

Part VI
Department of Energy, 67518–67519, 67520–67523

Part VII
Department of Transportation, Coast Guard, 67526–67537

Part VIII
Department of Education, 67540–67541

Part IX
Department of Education, 67544

Part X
The President, 67547

Reader Aids
Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Memorandum:

December 19, 1997.....67548

5 CFR

532 (2 documents) 67257, 67258

Proposed Rules:

831.....67295
842.....67295
870.....67295
890.....67295

7 CFR

2003.....67258

Proposed Rules:

985.....67297

10 CFR

1008.....67518

11 CFR

Proposed Rules:

102.....67300
104.....67300
108.....67300

14 CFR

71 (3 documents) 67265, 67266, 67267
73 (2 documents) 67268, 67269

Proposed Rules:

39 (2 documents) 67300, 67303

21 CFR

5.....67270
558.....67273
806.....67274

22 CFR

120.....67274
123.....67274
124.....67274
126.....67274
127.....67274
129.....67274

26 CFR

Proposed Rules:

31.....67304

30 CFR

250.....67278
251.....67278

32 CFR

318.....67291

Proposed Rules:

989.....67305

33 CFR

96.....67492
151.....67526

36 CFR

Proposed Rules:

1190.....67320
1191.....67320

40 CFR

Proposed Rules:

52.....67320
441.....67323
799.....67466

46 CFR

1.....67526
2.....67492
8.....67526
31 (2 documents) 67492, 67526
69.....67526
71 (2 documents) 67526
91 (2 documents) 67526
107 (2 documents) 67526, 67526
115.....67492
126.....67492
153.....67526
154.....67526
171.....67526
175.....67492
176.....67492
189.....67492

49 CFR

194.....67292
199.....67293

50 CFR

Proposed Rules:

17.....67324

Rules and Regulations

Federal Register
Vol. 62, No. 247
Wednesday, December 24, 1997

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.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI06

Prevailing Rate Systems; Removal of Putnam, Richmond, and Rockland Counties, NY, and Monmouth County, NJ, from the New York, NY, Appropriated Fund Survey Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to remove Putnam, Richmond, and Rockland Counties, NY, and Monmouth County, NJ, from the survey area of the New York, NY, appropriated fund Federal Wage System wage area. The four counties will remain in the area of application of the New York, NY, wage area.

EFFECTIVE DATE: January 23, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Allen at (202) 606–2848, or send an email message to maallen@opm.gov.

SUPPLEMENTARY INFORMATION: On November 3, 1997, OPM published a proposed rule to remove Putnam, Richmond, and Rockland Counties, NY, and Monmouth County, NJ, from the survey area of the New York, NY, appropriated fund Federal Wage System (FWS) wage area (62 FR 59300). The proposed rule provided a 30-day period for public comment, during which OPM received one comment. The comment was related to the definition of the Newburgh, NY, wage area—a matter previously decided by OPM following lengthy discussions at meetings of the Federal Prevailing Rate Advisory Committee (FPRAC), the statutory national-level labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees. The proposed rule is therefore being adopted as a final rule.

When the FWS was established in 1972, the New York, NY, survey area was composed of Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, and Westchester Counties, NY; and Essex, Hudson, Morris, and Union Counties, NJ. In 1975, FPRAC agreed by consensus to recommend that the New York, NY, survey area be expanded to include Putnam County, NY; and Bergen, Middlesex, Monmouth, Passaic, and Somerset Counties, NJ. This change was made so as to include 100 percent of the New York wage area's FWS employment in the New York, NY, survey area and to provide for a larger number of surveyable private industrial establishments.

As the largest FWS survey—with a sample of more than 900 industrial establishments—the New York, NY, FWS wage survey has become increasingly difficult to conduct because its logistical demands create unusual burdens on local agency activities already strained by downsizing and budget constraints. To reduce the logistical burdens of the New York, NY, FWS wage survey, OPM is removing Putnam, Richmond, and Rockland Counties, NY, and Monmouth County, NJ, from the New York, NY, survey area. Of the 19 counties in the New York, NY, survey area, OPM is removing these four counties from the survey area because their removal appears to offer the best means of reducing the logistical burdens of surveys in the New York, NY, wage area while least affecting the determination of prevailing rates for FWS employees in that wage area.

The removal of these four counties from the New York, NY, FWS survey area leaves about 90 percent of the wage area's FWS employment in the New York, NY, survey area, and reduces the number of surveyable private industrial establishments in the New York, NY, survey universe by only about 4 percent. OPM also considered the possible removal of other counties from the New York survey area, but none appeared to offer as convincing a rationale for removal as do Putnam, Richmond, Rockland, or Monmouth Counties. FPRAC reviewed and concurred by consensus with this change.

Because of a typographical error in appendix C to subpart B of 5 CFR part 532, the wage area listing for the New York, NY, wage area follows immediately after the wage area listing for the Newburgh, NY, wage area without showing the title of the New York, NY, wage area. This final rule also corrects that inadvertent omission.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix C to Subpart B of Part 532 [Amended]

2. Appendix C to subpart B is amended by revising the wage area listings for the Newburgh, New York, and New York, New York, wage areas to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

New York

* * * * *

Newburgh

Survey Area

New York:
Dutchess
Orange
Ulster

Area of Application. Survey Area Plus

New York:
Delaware
Sullivan

New York

Survey Area

New York:
Bronx
Kings
Nassau
New York
Queens
Suffolk
Westchester
New Jersey:
Bergen
Essex
Hudson
Middlesex
Morris
Passaic
Somerset
Union

Area of Application. Survey Area Plus

New York:
Putnam
Richmond
Rockland
New Jersey:
Monmouth
Sussex

* * * * *

[FR Doc. 97–33581 Filed 12–23–97; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI11

Prevailing Rate Systems; Abolishment of Kansas City, MO, Special Wage Schedule for Printing Positions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim rule to abolish the Federal Wage System (FWS) special wage schedule for printing positions in the Kansas City, Missouri, wage area. Printing and lithographic employees in Kansas City will now be paid rates from the regular Kansas City wage schedule.

DATES: This interim rule becomes effective on January 4, 1998. Comments must be received by January 23, 1998.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Mark Allen at (202) 606–2848, or send an email message to maallen@opm.gov.

SUPPLEMENTARY INFORMATION: The Department of Defense recommended to OPM that the Kansas City, MO, special wage schedule for printing positions be abolished and that the regular Kansas City wage schedule apply to printing employees in the Kansas City wage area. This recommendation was based on the fact that the number of employees paid from the special schedule has declined in recent years from a total of about 70 employees in 1985 to a current total of about 30 employees. With the reduced number of employees, it has become increasingly difficult to comply with the requirement that workers paid from the special printing schedule participate in the local wage survey process. A full-scale special wage survey in the Kansas City wage area would require the substantial work effort of contacting about 70 printing establishments spread over 8 counties and would require the participation of about 10 percent of the employees who are paid from the special printing schedule.

Upon abolishment of the Kansas City special printing schedule, the printing and lithographic employees will be converted to the regular schedule for the Kansas City wage area on a grade-for-grade basis. An employee's new rate of pay will be set at the rate for the step of the applicable grade of the regular schedule that equals the employee's existing scheduled rate of pay. When the existing rate falls between two steps, an employee's new rate will be set at the rate for the higher of those two steps. Pay retention provisions will apply for the few employees not receiving increases upon conversion. This conversion does not constitute an equivalent increase for within-grade increase purposes.

The Federal Prevailing Rate Advisory Committee, the statutory national-level labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with this change.

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because a new regular wage schedule will go into effect in the Kansas City wage area on January 4, 1998, and employees currently paid from the special printing schedule for the wage area would have received a wage adjustment on that date had the Department of Defense been able to conduct a special wage survey in the wage area in 1997.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.279 [Amended]

2. In § 532.279, paragraph (j)(3) is removed, and paragraph (j)(4) is redesignated as paragraph (j)(3).

[FR Doc. 97–33583 Filed 12–23–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 2003

Functional Organization of the Rural Development Mission Area

AGENCIES: Rural Housing Service; Rural Business-Cooperative Service; Rural Utilities Service; Farm Service Agency; USDA.

ACTION: Final rule.

SUMMARY: The issuing agencies amend their regulations to reflect the reorganization of the Department of Agriculture. The intended effect of this action is to provide efficient utilization of Department personnel resources. This publication provides the function statements for organizational units within the Rural Development mission area, the Rural Housing Service, Rural Business-Cooperative Service, and the Rural Utilities Service.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Timothy J. Ryan, Assistant Administrator for Human Resources, Rural Development, STOP 0730, 1400 Independence Avenue, SW., Washington, DC 20250–0730; Telephone: (202) 690–9860.

SUPPLEMENTARY INFORMATION:

Classification

This action is not subject to the provisions of Executive Order 12866 since it involves only internal Agency management and has no impact on borrowers or other members of the public. This action is not published for proposed rulemaking because it involves only internal Agency management and publication for comment is unnecessary and contrary to the public interest.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. Under section 202 of the UMRA, the agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments, or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Intergovernmental Consultation

These programs and activities are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This final action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this final action does not constitute a major Federal action significantly affecting the quality of human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Background

The Farmers Home Administration (FmHA) was abolished by the Department of Agriculture Reorganization Act of 1994 (1994 Act). The Office of the Assistant Administrator, Farmer Programs, and all its subordinate organizational units have been transferred to the Farm Service Agency (FSA). The remainder of the FmHA organizational units have been transferred in accordance with the 1994 Act to one of the following newly created agencies which make up the Rural Development mission area (Rural Development): the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service. The Rural Utilities Service also includes the organizational units of the former Rural Electrification Administration.

This rule adopts the organizational structure put into place following enactment of the 1994 Act on October 13, 1994. The rule only covers the Rural Development agencies. The functions and responsibilities delegated by the Under Secretary, Rural Development, to the Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, are published in 7 CFR part 2, subpart G, §§ 2.47 through 2.49.

List of Subjects in 7 CFR Part 2003

Organizations and functions (government agencies).

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

PART 2003—ORGANIZATION

1. The authority citation for part 2003 is revised to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1989, 7 U.S.C. 6941 *et seq*, 42 U.S.C. 1480, *et seq.*

2. Subpart A of part 2003 is revised to read as follows:

Subpart A—Functional Organization of the Rural Development Mission Area

Sec.

2003.1 Definitions.
2003.2 General.
2003.3 [Reserved]
2003.4 [Reserved]
2003.5 Headquarters organization.
2003.6 Office of the Under Secretary.
2003.7–2003.9 [Reserved]
2003.10 Rural Development State Offices.
2003.11–2003.13 [Reserved]
2003.14 Field Offices.
2003.15–2003.16 [Reserved]
2003.17 Availability of information.
2003.18 Functional organization of RHS.
2003.19–2003.21 [Reserved]
2003.22 Functional organization of RUS.
2003.23–2003.25 [Reserved]
2003.26 Functional organization of the RBS.
2003.27–2003.50 [Reserved]

§ 2003.1 Definitions.

EEO—the Equal Employment Opportunity Act of 1972, 42 U.S.C. § 2000e *et seq.*

O&M—Operations and Management.

P&P—Policy and Planning.

RBS—Rural Business-Cooperative Development Service, USDA, or any successor agency.

RHS—Rural Housing Service, USDA, or any successor agency.

RTB—Rural Telephone Bank authorized by 7 U.S.C. 944.

Rural Development—Rural Development mission area of USDA.

RUS—Rural Utilities Service, USDA, or any successor agency.

Secretary—the Secretary of USDA.

USDA—the United States Department of Agriculture.

§ 2003.2 General.

The Rural Development mission area of the Department of Agriculture was established as a result of the Department of Agriculture Reorganization Act of 1994, Title II of Pub.L. 103–354. Rural Development's basic organization consists of Headquarters in Washington, D.C. and 47 State Offices. Headquarters maintains overall planning, coordination, and control of Rural Development agency programs. Administrators head RHS, RBS, and RUS under the direction of the Under Secretary for Rural Development. State Directors head the State Offices and are directly responsible to the Under Secretary for the execution of all Rural Development agency programs within the boundaries of their states.

§ 2003.3–2003.4 [Reserved]

§ 2003.5 Headquarters organization.

(a) The Rural Development Headquarters is comprised of:

(1) The Office of the Under Secretary;

(2) Two Deputy Under Secretaries; and,

3) Three Administrators and their staffs.

(b) The Rural Development Headquarters is located at 1400 Independence Avenue, SW., Washington, DC. 20250–0700

§ 2003.6 Office of the Under Secretary.

In accordance with 7 CFR § 2.17 the Secretary has delegated to the Under Secretary, Rural Development, authority

to manage and administer programs and support functions of the Rural Development mission area.

(a) *Office of the Deputy Under Secretary for P&P.* This office is headed by the Deputy Under Secretary for P&P. The Under Secretary, Rural Development, has delegated to the Deputy Under Secretary for P&P, responsibility for formulation and development of short-and long-range rural development policies of the Department in accordance with 7 CFR § 2.45. The Deputy Under Secretary for P&P reports directly to the Under Secretary, Rural Development, and provides guidance and supervision for research, policy analysis and development, strategic planning, partnerships and special initiatives. For budget and accounting purposes, all of the staff offices under the Deputy Under Secretary for P&P are housed in RBS.

(1) The Budget Analysis Division assesses potential impacts of alternative policies on the mission area's programs and operations and develops recommendations for change. The units are headed by the Chief Budget Officer, who individually serves as the top policy advisor to the Under Secretary and Deputy Under Secretary on all matters relating to mission area budget policy.

(2) The Research, Analysis and Information Division analyzes information on rural conditions and the strategies and techniques for promoting rural development. The division performs, or arranges to have conducted, short-term and major research studies needed to formulate policy.

(3) The Reinvention and Capacity Building Division coordinates the mission area's strategic planning initiatives, both at the National level and in the State Offices. The division assists the Rural Development agencies in their implementation of the Government Performance and Results Act (GPRA) and special initiatives of the Administration, USDA, and the Office of the Under Secretary.

(4) The Rural Initiatives and Partnership Division manages the mission area's involvement and coordination with other Federal and state departments and agencies to assess rural issues and develop model partnerships and initiatives to achieve shared rural development goals. The division is responsible for managing the National Rural Development Partnership and providing support and oversight of 37 State Rural Development Councils.

(b) *Office of the Deputy Under Secretary for O&M.* In accordance with 7 CFR 2.45, the Under Secretary, Rural Development, has delegated to the Deputy Under Secretary for O&M responsibility for providing leadership in planning, developing, and administering overall administrative management program policies and operational activities of the Rural Development mission area. The Deputy Under Secretary for O&M reports directly to the Under Secretary, Rural Development.

(1) *Office of the Deputy Administrator for O&M.* Headed by the Deputy Administrator for O&M, this office reports directly to the Deputy Under Secretary for O&M, and is responsible for directing and coordinating the consolidated administrative and financial management functions for Rural Development. This office provides overall guidance and supervision for budget and financial management, human resources management and personnel services, administrative and procurement services, information resources management and automated data systems. For budget and accounting purposes, all of the staff offices under the Deputy Administrator for O&M are housed in RHS.

(i) *Office of the Controller.* Headed by the Chief Financial Officer, this office supports the Deputy Administrator for O&M in executing Rural Development requirements related to compliance with the Chief Financial Officers Act of 1990 and provides leadership, coordination, and oversight of all financial management matters and financial execution of the budget for the Rural Development agencies. This office also has full responsibility for Rural Development agencies' accounting, financial, reporting, and internal controls. The office provides direct oversight to the Headquarters Budget Division, Financial Management Division, and the Office of the Assistant Controller, located in St. Louis, Missouri.

(ii) *Office of Assistant Administrator for Procurement and Administrative Services.* Headed by the Assistant Administrator for Procurement and Administrative Services, this office is responsible to the Deputy Administrator for O&M for overseeing the Procurement Management Division, the Property and Supply Management Division, and the Support Services Division:

(A) The Procurement Management Division is responsible for developing, implementing, and interpreting procurement and contracting policies for the Rural Development mission area. Major functions include planning outreach efforts and goals for small and disadvantaged businesses, providing staff assistance reviews in State and Local Offices, administering the Contracting Officer Professionalism Warrant program for Rural Development agencies, and coordinating the development of Rural Development's acquisition plans.

(B) The Property and Supply Management Division is responsible for developing office space acquisition and utilization policies, providing training to field office leasing officers, administering the Leasing Officer Warrant program, assuring accessibility compliance in Rural Development's work sites, administering Rural Development's Physical Security program, and establishing and providing oversight to the worksite Energy Conservation program. This office operates a nationwide supply warehousing and distribution program, and oversees a nationwide Personal Property Management and Utilization Program, manages the U.S. Department of Agriculture (USDA) Excess Personal Property Program for field level activities, and provides direct support services to Rural Development's St. Louis facilities.

(C) The Support Services Division has responsibility for designing, developing, administering, and controlling Rural Development's directives management and issuance system, coordinating Rural Development's Regulatory Agenda and Regulatory Program submissions to USDA and OMB, serving as **Federal Register** liaison, and analyzing and coordinating regulatory work plans for the Under Secretary. This office submits Paperwork Reduction Act public burden clearances to OMB, administers all printing programs, manages Rural Development travel policies and programs, and manages Freedom of Information Act, Privacy Act and Tort Claims programs.

(iii) *Office of Information Resources Management (IRM).* Headed by the Chief Information Officer, this office is responsible to the Deputy Administrator for O&M for developing Rural Development's IRM policies, regulations, standards and guidelines. This office provides overall leadership and direction to activities assigned to the following four major divisions:

(A) The Customer Services Division is responsible for direct customer and technical support (hardware and software).

(B) The Management Services Division coordinates all IRM acquisition, budget, and policy and planning activities in support of Rural Development automation.

(C) The Information Technology Division provides support technical

services in the areas of data administration, system integrity management, research and development, and telecommunications.

(D) The Systems Services Division is responsible for planning, directing, and controlling activities related to Rural Development's Automated Information Systems.

(iv) *Office of the Assistant Administrator for Human Resources.* Headed by the Assistant Administrator for Human Resources, this office is responsible to the Deputy Administrator for O&M for the overall development, implementation, and management, of personnel and human resources support services for Rural Development. The office provides direction to the Headquarters Personnel Services, Human Resources Training and Mission Area Personnel Services Division, and Labor Relations Staff offices. The office is also responsible for the establishment of recruitment, retention, and development policies and programs supporting workforce diversity and affirmative action.

(2) *Office of Civil Rights Staff.* Headed by a staff director, this staff has primary responsibility for providing leadership and administration of the Civil Rights Program for the Rural Development mission area. The staff conducts on-site reviews of borrowers and beneficiaries of Federal financial assistance to ensure compliance with Titles VI and VII of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and prepares compliance reports. The staff conducts and evaluates Title VII compliance visits to insure that EEO programs are adequately implemented. In addition, the office develops, monitors, and evaluates Affirmative Employment programs for minorities, women and persons with disabilities, and coordinates and conducts community outreach activities at historically black colleges and universities. It also has oversight of special emphasis programs such as the Federal Women's Program, Hispanic Emphasis Program, and Black Emphasis Program. The staff director reports directly to the Deputy Under Secretary for O&M.

(3) *Office of Communications.* Headed by a director who reports directly to the Deputy Under Secretary for O&M, this office has primary responsibility for tracking legislation and development and institution of policies to provide public communication and information services related to the Rural Development. The office maintains a constituent data base and conducts minority outreach efforts and administers a public information and media center responsible for media inquiries, news releases, program announcements, media advisories, and information retrieval. This office also serves as a liaison with Office of Congressional Relations (OCR), Office of the General Counsel (OGC), and other Departmental units involved in Congressional relations and public information. This office drafts testimony, prepares witnesses, and provides staff for hearings and markups. In addition, the office briefs Congressional members and staff on the Rural Development matters, coordinates Rural Development's legislative activities with other USDA agencies and OMB and develops and implements legislative strategy. The staff also coordinates development and production of brochures, press releases, and other public information materials.

§§ 2003.7—2003.9 [Reserved]

§ 2003.10 Rural Development State Offices.

(a) Headed by State Directors, State Offices report directly to the Under Secretary, Rural Development, and are responsible to the three Rural Development agency Administrators for carrying out agency program operations at the State level, ensuring adherence to program plans approved for the State by the Under Secretary, and rendering staff advisory and manpower support to Area and Local offices. The Rural Development State Directors, for budget and accounting purposes, are housed in the RHS agency.

(b) Program Directors within the State Office provide oversight and leadership on major program functions. Major program functions include: Single Family and Multi-Family Housing loans and grants, Community Facility, Water and Waste Disposal, Business and Cooperative, and the Empowerment Zones and Enterprise Communities (EZ/EC) programs.

(c) The USDA Rural Development State Office locations are as follows:

State	Location
Alabama	Montgomery, AL
Alaska	Palmer, AK
Arizona	Phoenix, AZ
Arkansas	Little Rock, AR
California	Woodland, CA
Colorado	Lakewood, CO
Delaware	Camden, DE
Florida	Gainesville, FL
Georgia	Athens, GA
Hawaii	Hilo, HI
Idaho	Boise, ID
Illinois	Champaign, IL
Indiana	Indianapolis, IN
Iowa	Des Moines, IA
Kansas	Topeka, KS
Kentucky	Lexington, KY
Louisiana	Alexandria, LA
Maine	Bangor, ME
Massachusetts	Amherst, MA
Michigan	East Lansing, MI
Minnesota	St. Paul, MN
Mississippi	Jackson, MS
Missouri	Columbia, MO
Montana	Bozeman, MT
Nebraska	Lincoln, NE
Nevada	Carson City, NV
New Jersey	Mt. Holly, NJ
New Mexico	Albuquerque, NM
New York	Syracuse, NY
North Carolina	Raleigh, NC
North Dakota	Bismarck, ND
Ohio	Columbus, OH
Oklahoma	Stillwater, OK
Oregon	Portland, OR
Pennsylvania	Harrisburg, PA
Puerto Rico	Hato Rey, PR
South Carolina	Columbia, SC
South Dakota	Huron, SD
Tennessee	Nashville, TN
Texas	Austin, TX
Vermont	Montpelier, VT
Virginia	Richmond, VA
Washington	Olympia, WA
West Virginia	Charleston, WV
Wisconsin	Stevens Point, WI
Wyoming	Casper, WY

§§ 2003.11–2003.13 [Reserved]

§ 2003.14 Field Offices.

Rural Development field offices report to their respective State Director and State Office Program Directors. State Directors may organizationally structure their offices based on the program workloads within their respective State. Field offices generally are patterned in a three or two tier program delivery structure. In a three tier system, Local offices report to an Area office, that reports to the State Office. In a two tier system, a ''Local'' or ''Area'' office reports to the State Office. Locations and telephone numbers of Area and Local Offices may be obtained from the appropriate Rural Development State Office.

§§ 2003.15—2003.16 [Reserved]

§ 2003.17 Availability of information.

Information concerning Rural Development programs and agencies may be obtained from the Office of Communications, Rural Development, U. S. Department of Agriculture, STOP 0705, 1400 Independence Avenue SW., Washington, DC 20250–0705.

§ 2003.18 Functional organization of RHS.

(a) *General.* The Secretary established RHS pursuant to § 233 of the Department of Agriculture

Reorganization Act of 1994 (7 U.S.C. 6943).

(b) *Office of the Administrator.* According to 7 CFR 2.49, the Administrator has responsibility for implementing programs aimed at delivering loans and grant assistance to rural Americans and their communities in obtaining adequate and affordable housing and community facilities, in accordance with Title V of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*) and the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*).

(1) *Legislative Affairs Staff.* The duties and responsibilities of this staff have now been aligned under the Office of Communication, headed by a director who reports directly to the Under Secretary for O&M. The Office of Communication is responsible for providing and carrying out legislative, public communication, and information services for the Rural Development mission area.

(2) *Office of Program Support Staff.* The Program Support Staff is headed by a staff director who is responsible to the Administrator for monitoring managerial and technical effectiveness of RHS programs. The staff coordinates review and analysis of legislation, Executive Orders, OMB circulars, and Department regulations for their impact on Agency programs. The staff develops, implements, and reports on architectural and environmental policies, in cooperation with the Department. Staff responsibilities also include managing RHS's Hazardous Waste Management Fund, coordinating the Debarment and Suspension process for RHS, tracking the use of Program Loan Cost Expense funds, and maintaining the RHS Internet ''Home Page.''

(3) *Office of Deputy Administrator, Single Family Housing.* Headed by the Deputy Administrator, Single Family Housing, this office is responsible to the Administrator for the development and implementation of RHS's Single Family Housing programs, which extend supervised housing credit to rural people of limited resources, for adequate, modest, decent, safe, and sanitary homes. The office is responsible for administering and managing sections 502 and 504 Rural Housing direct and guaranteed loan and grant programs, Rural Housing and Self-Help Site loans, the Self-Help Technical Assistance grant program, Housing Application Packaging and Technical and Supervisory Assistance grants, and Home Improvement and Repaid loans and grants. The office directs the following three divisions: Single Family Housing Processing Division, Single Family Housing Servicing and Property Management Division, and Single Family Housing Centralized Servicing Center in St. Louis, Mo.

(i) *Office of Single Family Housing Processing Division.* Headed by a division director, this division is responsible for development and nationwide implementation of policies on processing Single Family Housing direct and guaranteed program loans. In addition, the division provides direction on the following: the Rural Housing Targeted Area Set-Aside program, debarments, payment assistance, title clearance and loan closing, site/subdivision development, Deferred Mortgage Payment Program; construction defects, credit reports, appraisals, Manufactured Housing, coordinated assessment reviews, Home Buyer's Counseling/Education Program, and allocation of loan and grant program funds.

(ii) *Office of Single Family Housing Servicing and Property Management Division.* Headed by a division director, this division is responsible for the development and implementation of nationwide policies for servicing RHS's multi-billion dollar portfolio of Single Family Housing loans, and managing and selling Single Family Housing inventory properties. The division also conducts state program evaluations, identifies program weaknesses, makes recommendations for improvements, and identifies corrective actions.

(iii) *Office of Single Family Housing Centralized Servicing Center (CSC)—St. Louis, Missouri.* Headed by a director, CSC is responsible for centrally servicing RHS's multi-billion dollar portfolio of Single Family Housing loans. CSC provides interest credit or payment assistance renewals, performs escrow activities for real estate taxes and property hazard insurance, oversees collection of loan payments, and grants interest credit, payment assistance, and moratoria.

(4) *Office of the Deputy Administrator, Multi-Family Housing Division.* Headed by the Deputy Administrator, Multi-Family Housing, this office is responsible for the development and nationwide implementation of RHS's Multi-Family Housing programs, which extend supervised housing credit to rural residents an opportunity to have decent, safe, and sanitary rental housing. The following programs are administered and managed by this office: Section 515 Rural Rental Housing, Rural Cooperative and Congregate Housing Programs, Section 521 Rental Assistance, Farm Labor Housing loan and grant programs, Housing Preservation Grants, rural housing vouchers, and Housing Application Packaging Grants. This office directs the following two divisions:

(i) *Multi-Family Housing Processing Division.* Headed by a division director, this division is responsible for the development and nationwide implementation of policies on processing Multi-Family Housing program loans. The division manages the following program areas: elderly and family rental housing, Farm Labor Housing loans and grants, outreach contacts, congregate facilities, Housing Preservation Grants, cooperative housing, rural housing vouchers, appraisals, Congregate Housing Services Grants, Rental Assistance, Housing Application Packaging Grants, targeted area and nonprofit set asides, Multi-Family Housing suspensions and debarments, title clearance and loan closing, allocation and monitoring of loan and grant funds, adverse decisions and appeals, commercial credit reports, individual credit reports, and, site development.

(ii) *Multi-Family Housing Portfolio Management Division.* Headed by a division director, this division is responsible for the development and institution of policies on the management and servicing of the nationwide Multi-Family Housing programs. The Division implements current and long range plans for servicing Rural Rental Housing loans, Labor Housing loans and grants, and Rental Assistance or similar tenant subsidies.

(5) *Office of the Deputy Administrator, Community Programs.* Headed by the Deputy Administrator, Community Programs, this office is responsible for overseeing the administration and management of Community Facilities loans and grants to hospitals and nursing homes, police and fire stations, libraries, schools, adult and child care centers, etc. The office monitors and evaluates the administration of loan and grant programs on a nationwide basis and provides guidance and direction for community programs through two divisions, Community Programs Loan Processing Division and Servicing and Special Authorities Division.

(i) *Community Programs Loan Processing Division.* Headed by a director, this division is responsible for the overall administration, policy development, fund distribution, and processing of Community Facilities loans and other loan and grant programs assigned to the Division.

(ii) *Servicing and Special Authorities Division.* Headed by a division director,

this division is responsible for the overall administration, policy development, and servicing of the Community Facilities loan and grant programs. The division conducts program evaluations, identifies program weaknesses, makes recommendations for improvements, and identifies corrective actions. The division also administers and services Nonprofit National Corporation loans and grants.

§§ 2003.19—2003.21 [Reserved]

§ 2003.22 Functional organization of RUS.

(a) *General.* The Secretary established RUS pursuant to § 232 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942).

(b) *Office of the Administrator.* According to 7 CFR 2.47, the Administrator has responsibility for managing and administering the programs and support functions of RUS to provide financial and technical support for rural infrastructure to include electrification, clean drinking water, telecommunications, and water disposal systems, pursuant to the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 *et seq.*), and the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*). The office develops and implements strategic plans concerning the Rural Electrification Act of 1936, as amended. The Administrator serves as Governor of the Rural Telephone Bank (RTB) with a 13-member board of directors, and exercises and performs all functions, powers, and duties of the RTB in accordance with 7 U.S.C. 944.

(1) *Borrower and Program Support Services.* Borrower and Program Support Services consist of the three following staffs which are responsible to the Administrator for planning and carrying out a variety of program and administrative services in support of all RUS programs, and providing expert advice and coordination for the Administrator:

(i) *Administrative Liaison Staff.* Headed by a staff director, this staff advises the Administrator on management issues and policies relating to human resources, EEO, labor-management partnership, administrative services, travel management, automated information systems, and administrative budgeting and funds control.

(ii) *Program Accounting Services Division.* Headed by a division director, this division develops and evaluates the accounting systems and procedures of Electric, Telecommunications, and Water and Wastewater borrowers; assures that accounting policies, systems, and procedures meet regulatory, Departmental, General Accounting Office, OMB, and Treasury Department requirements; examines borrowers' records and operations, and reviews expenditures of loans and other funds; develops audit requirements; and approves Certified Public Accountants to perform audits of borrowers.

(iii) *Program and Financial Services Staff.* Headed by a staff director, this staff evaluates the financial conditions of troubled borrowers, negotiates settlements of delinquent loans, and makes recommendations to program Assistant Administrators on ways to improve the financial health of borrowers.

(2) *Office of Assistant Administrator—Electric Program.* Headed by the Assistant Administrator—Electric Program, this office is responsible to the Administrator for directing and coordinating the Rural Electrification program of RUS nationwide. This office develops, maintains, and implements regulations and program procedures on processing and approving loans and loan-related activities for rural electric borrowers. The office directs the following three divisions:

(i) *Electric Regional Divisions.* Headed by division directors, these two divisions are responsible for administering the Rural Electrification program in specific geographic areas and serving as the single point of contact for all distribution borrowers. The divisions provide guidance to borrowers on RUS loan policies and procedures, maintain oversight of borrower rate actions, and make recommendations to the Administrator on borrower applications for RUS financing. The divisions also assure that power plant, distribution, and transmission systems and facilities are designed and constructed in accordance with the terms of the loan and proper engineering practices and specifications.

(ii) *Power Supply Division.* Headed by a division director, this division is responsible for administering the Rural Electrification program responsibilities with regard to power supply borrowers nationwide and serves as primary point of contact between RUS and all such borrowers. The division develops and maintains a loan processing program for Rural Electrification Act purposes, and develops and administers engineering and construction policies related to planning, design, construction, operation, and maintenance for power supply borrowers.

(iii) *Electric Staff Division.* Headed by a division director, this division is responsible for engineering activities related to the design, construction, and technical operations and maintenance of power plants; distribution of power; and transmission systems and facilities, including load management and communications. The division develops criteria and techniques for evaluating the financing and performance of electric borrowers and forecasting borrowers' future power needs; and maintains financial expertise on the distribution and power supply loan program, and retail and wholesale rates.

(3) *Office of Assistant Administrator—Telecommunications Program.* Headed by the Assistant Administrator—Telecommunications Program, this office is responsible to the Administrator for directing and coordinating the National Rural Telecommunications, Distance Learning, and Telemedicine programs of RUS. The Assistant Administrator, Telecommunications Program, serves as Assistant Governor of the RTB and is responsible for the day-to-day activities of the RTB. The office develops, maintains, and implements regulations and program procedures on the processing and approval of grants, loans, and loan-related activities for all rural telecommunications borrowers and grant recipients. The office directs the following three divisions:

(i) *Telecommunications Standards Division.* Headed by a division director, this division is responsible for engineering staff activities related to the design, construction, and technical operation and maintenance of rural telecommunications systems and facilities. The office develops engineering practices, policies, and technical data related to borrowers' telecommunications systems; and evaluates the application of new communications network technology, including distance learning and telemedicine, to rural telecommunications systems.

(ii) *Advanced Telecommunications Services Staff.* Headed by a staff director, this staff primarily serves the Assistant Administrator, Telecommunications Program in the role of the Assistant Governor of the RTB. The office performs analyses and makes recommendations to the AAT on issues raised by the RTB Governor, Board of Directors, or RTB borrowers. This staff maintains official records for the RTB Board and prepares minutes of RTB Board meetings. The staff director serves as the Assistant Secretary to the RTB. The staff performs the calculations necessary to determine the cost of money rate to RTB borrowers and recommends and develops program-

wide procedures for loan and grant programs. The office is responsible for the Telecommunications Program's home page on the Internet.

(iii) *Telecommunications Area Offices.* Headed by area directors, these four offices are responsible for administering the Telecommunications, Distance Learning, and Telemedicine programs for specific geographic areas, and serving as the single point of contact for all program applicants and borrowers within their respective areas. The offices provide guidance to applicants and borrowers on RUS and RTB loan policies and procedures, and make recommendations to the Administrator on applications for loans, guarantees, and grants. The offices assure that borrower systems and facilities are designed and constructed in accordance with the terms of the loan, acceptable engineering practices and specifications, and acceptable loan security standards.

(4) *Office of the Assistant Administrator—Water and Environmental Programs.* Headed by the Assistant Administrator, Water and Environmental Programs, this office is responsible to the Administrator for directing and coordinating a nationwide Water and Waste Disposal Program for RUS as authorized under Section 306 of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926). The office oversees administration of RUS policies on making and servicing loans and grants for water and waste facilities in rural America, and the development of engineering policies, and practices related to the construction and operation of community water and waste disposal systems. This office is responsible for development and coordination of environmental programs with regard to the Water and Waste Disposal Program and directs the following two divisions:

(i) *Water Programs Division.* Headed by the division director, this division is responsible for administering the Water and Waste Disposal loan and grant making and servicing and special authorities activities nationwide. This office also makes allocation of loan and grant funds to field offices and manages National Office reserves.

(ii) *Engineering and Environmental Staff.* Headed by a staff director, this staff is responsible for engineering activities at all stages of program implementation, including: review of preliminary engineering plans and specifications, procurement practices, contract awards, construction monitoring, and system operation and maintenance. The staff also develops Agency engineering practices, policies, and technical data related to the construction and operation of community water and waste disposal systems. The staff is responsible for coordinating environmental policy and providing technical support in areas such as: hazardous waste, debarment and suspension, flood insurance, drug free workplace requirements, and computer program software.

§§ 2003.23—2003.25 [Reserved]

§ 2003.26 Functional organization of RBS.

(a) *General.* The Secretary established RBS pursuant to § 234 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6944).

(b) *Office of the Administrator.* According to 7 CFR 2.48, the Administrator is responsible for managing and administering the programs and support functions of RBS to provide assistance to disadvantaged communities through grants and loans and technical assistance to businesses and communities for rural citizens and cooperatives, pursuant to the following authorities: the Rural Electrification Act of 1936, as amended (7 U.S.C. 940c and 950aa *et seq.*), the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*), the Cooperative Marketing Act of 1926 (7 U.S.C. 451–457), the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and the Food Security Act of 1985 (7 U.S.C. 1932). These grants, loans, and technical assistance improve community welfare by enhancing organizational and management skills, developing effective economic strategies, and expanding markets for a wide range of rural products and services.

(1) *Resources Coordination Staff.* Headed by the staff director, this staff is responsible to the Administrator for preparing legislative initiatives and modifications for program enhancement. The staff monitors legislative and regulatory proposals that potentially impact RBS functions. The staff serves as liaison on budgetary and financial management matters between RBS staff and the Office of the Controller, and assists the Administrator in presenting and supporting RBS's budget and program plans. The staff also advises the Administrator and RBS officials on management issues and policies related to: human resources, labor relations, civil rights, EEO, space, equipment, travel, Senior Executive Service and Schedule C activities, contracting, automated information systems, and accounting. The staff provides analysis and recommendations on the effectiveness of administrative and management activities, and performs liaison functions between RBS and the Office of the Deputy Under Secretary for O&M on a wide variety of administrative functions.

(2) *Office of the Deputy Administrator, Business Programs.* Headed by the Deputy Administrator, Business Programs, this office is responsible to the Administrator for overseeing and coordinating the Business and Industry Guaranteed and Direct Loan programs, Intermediary Relending Program loans, Rural Business Enterprise grants, Rural Business Opportunity grants, Rural Economic Development loan and grant programs, and the Rural Venture Capital Demonstration Program. The office participates in policy planning, and program development and evaluation. It also directs the following three divisions:

(i) *Processing Division.* Headed by the division director, this division is responsible for developing and maintaining loan processing regulations, and directs the processing and approval of guaranteed and direct business and industry loans, and the Rural Venture Capital Demonstration Program. It provides technical assistance to field employees and borrowers on loan processing and develops approval criteria and performance standards for loans. The division recommends plans, programs, and activities related to business loan programs and provides environmental guidance and support.

(ii) *Servicing Division.* Headed by the division director, this office is responsible for developing and maintaining servicing regulations. It directs and provides technical assistance to field employees and borrowers on servicing business loans and grants. The division reviews large, complex, or potentially controversial loan and grant dockets related to loan servicing and recommends servicing plans, programs, and activities related to business loan and grant programs.

(iii) *Specialty Lenders Division.* Headed by the division director, this office is responsible for directing and developing and maintaining regulations concerning the processing and approval of Intermediary Relending loans, Rural Business Enterprise grants, Rural Business Opportunity grants, and Rural Economic Development loan and grant programs. The division provides technical assistance to field employees and borrowers on loan and grant processing and other activities. It also develops approval criteria and performance standards and recommends

plans, programs, and activities related to business loan and grant programs.

(3) *Office of the Deputy Administrator, Cooperative Services Programs.* Headed by the Deputy Administrator, Cooperative Services Programs, this office is responsible to the Administrator for providing service to cooperative associations by administering a program of research and analysis of economic, social, legal, financial, and other related issues concerning cooperatives. The office administers programs to assist cooperatives in the organization and management of their associations and a program for economic research and analysis of the marketing aspects of cooperatives. The division administers and monitors activities of the National Sheep Industry Improvement Center and the Appropriate Technology Transfer to Rural Areas Program, and the Rural Cooperative Development Grant Program. The office directs the following three divisions:

(i) *Cooperative Marketing Division.* Headed by the division director, this division is responsible for participating in the formulation of National policies and procedures on cooperative marketing. The division conducts research and analysis and gives technical assistance to farmer cooperatives on cooperative marketing of certain crops, livestock, aquaculture, forestry, poultry, semen, milk, and dairy products to improve their market performance and economic position.

(ii) *Cooperative Development Division.* Headed by the division director, this division is responsible for participating in the formulation of National policies and procedures on cooperative development. The office conducts evaluations and analysis of proposed new cooperatives to develop plans for implementing feasible operations, and advises and assists rural resident groups and developing cooperatives in implementing sound business plans for new cooperatives. It provides research, analysis, and technical assistance to rural residents on cooperative development initiatives and strategies to improve economic conditions through cooperative efforts.

(iii) *Cooperative Resource Management Division.* Headed by the division director, this division is responsible for participating in the formulating of National policies and procedures on cooperative resource management. The division conducts research and analysis and gives technical assistance to cooperatives on their overall structure, strategic management and planning, financial issues, and operational characteristics to improve their use of resources, financial policies, and ability to adapt to market conditions. The division conducts research and analysis of policy, taxation, Federal laws, State statutes, and common laws that apply to cooperative incorporation, structure, and operation to assist cooperatives in meeting legal requirements.

(4) *Office of the Deputy Administrator, Community Development.* Headed by the Deputy Administrator, Community Development, this office is responsible to the Under Secretary, Rural Development, for coordinating and overseeing all functions in the Community Outreach and Empowerment Program areas. The office assists in providing leadership and coordination to National and local rural economic and community development efforts. For appropriation and accounting purposes, this office is located under RBS. The office directs the following two divisions:

(i) *Empowerment Program Division.* Headed by the division director, this division is responsible for formulating policies and developing plans, standards, procedures, and schedules for accomplishing RBS activities related to ''community empowerment programs'', including EZ/EC, AmeriCorps, and other initiatives. The office develops informational materials and provides technical advice and services to support States on community empowerment programs. It also generates information about rural conditions and strategies and techniques for promoting rural economic development for community empowerment programs.

(ii) *Community Outreach Division.* Headed by the division director, this division is responsible for designing and overseeing overall systems and developing resources to support State and community level implementation activities for RBS programs. The office designs program delivery systems and tools, removes impediments to effective community-level action, supports field offices with specialized skills, and establishes partnerships with National organizations with grass-roots membership to assure that programs and initiatives are designed and implemented in a way that empowers communities. It develops methods for working with rural business intermediaries to assist them in providing technical assistance to new, small business, and provides Internet-based services to 1890 Land-grant universities, EZ/EC, and AmeriCorps volunteers, linking RBS information support to communities with high levels of need.

(5) *Alternative Agricultural Research and Commercialization Corporation.* Headed by a director, this Corporation is responsible for providing and monitoring financial assistance for the development and commercialization of new nonfood and nonfeed products from agricultural and forestry commodities in accordance with 7 U.S.C. 5901 *et seq.* The Corporation acts as a catalyst in forming private and public partnerships and promotes new uses of agricultural materials. It expands market opportunities for U.S. farmers through development of value-added industrial products and promotes environmentally friendly products. For budget and accounting purposes, this office is assigned to RBS. The director of the Corporation is responsible to the Office of the Secretary.

§§ 2003.27—2003.50 [Reserved]

Dated: November 26, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–33588 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–XT–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–22]

Establishment of a Class D Airspace; Hickory, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Class D airspace area at Hickory, NC. A non-federal control tower has opened at Hickory Regional Airport, Hickory, NC. Class D surface area airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAP) and for Instrument Flight Rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On October 17, 1997, the FAA proposed to amend 14 CFR part 71 by establishing Class D airspace at Hickory, NC (62 FR 53979). This action would provide Class D airspace for IFR operations at Hickory Regional Airport. Class D surface area airspace designations are published in Paragraph 5000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR part 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to 14 CFR part 71 establishes Class D airspace at Hickory, NC. A non-federal control tower has opened at Hickory Regional Airport, Hickory, NC. Class D surface area airspace is required when the control tower is open to accommodate current SIAPs and for IFR operations at the airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO NC D Hickory, NC [New]

Hickory Regional Airport, NC
(Lat. 35°44′28″ N, long. 81°23′22″ W)

That airspace extending upward from the surface to and including 3700 feet MSL within a 4.1-mile radius of Hickory Regional Airport. This Class D airspace is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 1, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–33619 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–20]

Amendment of Class E Airspace; Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E Airspace area at Covington, KY A Global Positioning System (GPS) Runway (RWY) 24 Standard Instrument Approach Procedure (SIAP) has been developed for Cincinnati-Blue Ash Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Cincinnati-Blue Ash Airport.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On October 23, 1997, the FAA proposed to amend 14 CFR part 71 by amending the Class E airspace at Covington, KY (62 FR 55814). This action would provide adequate Class E airspace for IFR operations at Cincinnati-Blue Ash Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will published subsequently in the Order.

Interested parties were invited to participate in this rulemking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Covington, KY. A GPS RWY 24 SIAP has been developed for Cincinnati-Blue Ash Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate this SIAP and for IFR operations at Cincinnati-Blue Ash Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ASO KY E5 Covington, KY [Revised]

Covington, Cincinnati/Northern Kentucky International Airport, KY
(Lat. 39°02′46″ N, long. 84°39′44″ W)
Cincinnati Municipal Airport-Lunken Field
(Lat. 39°06′12″ N, long. 84°25′07″ W)
Cincinnati NDB
(Lat. 39°09′33″ N, long. 84°20′32″ W)
Clermont County Airport, Batavia, OH
(Lat. 39°04′42″ N, long. 84°12′37″ W)
Cincinnati-Blue Ash Airport, OH
(Lat. 39°14′48″ N, long. 84°23′20″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Cincinnati/Northern Kentucky International Airport, and within a 10.5-mile radius of Cincinnati Airport-Lunken Field and within 2.6 miles each side of the 044° bearing from Cincinnati NDB and extending from the 105-mile radius to 7.4 miles northeast of the NDB, and within a 6.8-mile radius of Clermont County Airport, Batavia, OH, and within a 6.3-mile radius of Cincinnati-Blue Ash Airport, OH.

* * * * *

Issued in College Park, Georgia, on December 2, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–33618 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–15]

Amendment of Class E Airspace; Birmingham, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Birmingham, AL. A Global Positioning System (GPS) Runway (RWY) 23 Standard Instrument Approach Procedure (SIAP) has been developed for Birmingham International Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Birmingham International Airport.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On October 17, 1997, the FAA proposed to amend 14 CFR part 71 by amending the Class E airspace at Birmingham, AL (62 FR 53984). This action would provide adequate Class E airspace for IFR operations at Birmingham International Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Birmingham, AL. A GPS RWY 23 SIAP has been developed for Birmingham International Airport. Additional controlled airspace extending upward from 700 fee AGL is needed to accommodate this SIAP and for IFR operations at Birmingham International Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ASO FL E5 Birmingham, AL [Revised]

Birmingham International Airport, AL
Lat. 33°33′47″ N, long. 86°45′24″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Birmingham International Airport.

* * * * *

Issued in College Park, Georgia, on December 2, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–33620 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 96–ASO–5]

RIN 2120–AA66

Amendment to Time of Designation for Restricted Areas; GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the time of designation for Restricted Areas R–3008A, R–3008B, R–3008C, and R–3008D, Grand Bay Weapons Range, GA, by expanding the time frame during which the areas may be activated without prior issuance of a Notice to Airmen (NOTAM). The United States Air Force (USAF) requested this amendment to reflect its actual night flying requirements.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1996, the FAA proposed to amend 14 CFR part 73 (part 73) to change the core hours of designation for Restricted Areas R–3008A, R–3008B, R–3008C, and R–3008D, Grand Bay Weapons Range, GA, from 0700–1900 local time, Monday–Friday to 0700–2200 local time, Monday–Friday (61 FR 45920).

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Two comments were received by the FAA, both objecting to the proposal on the grounds that the change would constitute an expansion of military operations and a reduction of access for civil airspace users. Currently, the using agency has the option of activating the restricted areas at any time outside the existing ''core hours'' of 0700–1900 local time, provided a NOTAM is issued the required 6 hours in advance. The current published times, however, do not adequately reflect the actual night flying mission of the USAF 347th Wing. This change is intended to better accommodate the Wing's actual night flying requirements. No increase in the use of the range is anticipated. Therefore, the purpose of this rule is to amend the time of designation to more accurately indicate to the flying public the actual use of the restricted areas. A NOTAM will still be required in order to activate the restricted areas between the hours of 2200 and 0700 local time.

Despite this change, the restricted areas will continue to be operated on a real-time, joint-use basis with the airspace being returned to the controlling agency (Valdosta Approach Control) and available for access by nonparticipating aircraft during periods when the restricted areas are not needed by the using agency.

The Rule

This amendment to part 73 changes the core hours of designation for Restricted Areas R–3008A, R–3008B, R–3008C, and R–3008D from 0700–1900 local time, Monday–Friday to 0700–2200 local time, Monday–Friday. The action expands, by three hours daily, the ''core hours'' during which the restricted areas may be activated without prior issuance of a NOTAM. As amended, a NOTAM will no longer be required for activation of the restricted areas between 1900 and 2200 local time. The using agency currently has the option of activating the restricted areas between 1900 and 0700 local time provided a NOTAM is issued the required 6 hours in advance. However, the 347th Wing's night flying missions using R–3008 routinely extend past 1900 local time, but are normally terminated by 2200 local time. This requires the daily issuance of NOTAM's to permit activation of the areas between 1900 and 2200. This amendment of the time of designation will provide better notice to the flying public of the routine times of use of the restricted areas. A NOTAM will still be required prior to any usage between 2200 and 0700 local time.

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

Section 73.30 of 14 CFR part 73 was republished in FAA Order 7400.8E, dated November 7, 1997.

Environmental Review

The USAF prepared an Environmental Assessment (EA) and an Environmental Impact Statement (EIS) of the composite wing beddown at Moody AFB, Georgia. The EA and EIS studied the impact of aircraft operations during both day (0700–2200) and night (2200–0700) time frames, including the use of R–3008A, R–3008B, R–3008C, and R–3008D. The USAF's record of decision to base the composite wing at Moody AFB took into account the use of R–3008 between 1900 and 2200, and concluded that use of the restricted areas during this time frame did not constitute a significant impact. The utilization figures for this amendment are the same as those used in the EIS for the beddown. Based on the results of the EA and EIS accomplished for the composite wing beddown, the USAF determined that this amendment to the restricted area time of designation qualifies for a categorical exclusion. The FAA has reviewed the USAF's environmental documentation and concludes that this action is categorically excluded in accordance with FAA Order 1050.1D and the FAA/DOD Memorandum of Understanding of 1989 regarding Special Use Airspace actions.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

§ 73.30 [Amended]

2. § 73.30 is amended as follows:

* * * * *

R–3008A Grand Bay Weapons Range, GA [Amended]

By removing ''Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance,'' and inserting ''Time of designation. 0700–2200 local time, Monday–Friday; other times by NOTAM 6 hours in advance.''

R–3008B Grand Bay Weapons Range, GA [Amended]

By removing ''Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance,'' and inserting ''Time of designation. 0700–2200 local time, Monday–Friday; other times by NOTAM 6 hours in advance.''

R–3008C Grand Bay Weapons Range, GA [Amended]

By removing ''Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance,'' and inserting ''Time of designation. 0700–2200 local time, Monday–Friday; other times by NOTAM 6 hours in advance.''

R–3008D Grand Bay Weapons Range, GA [Amended]

By removing ''Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance,'' and inserting ''Time of designation. 0700–2200 local time, Monday–Friday; other times by NOTAM 6 hours in advance.''

* * * * *

Issued in Washington, DC, on December 4, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–33617 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 97–ASO–8]

RIN 2120–AA66

Revocation and Modification of Restricted Areas; FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes Restricted Area R–2931, Cape Canaveral, FL, and modifies Restricted Areas R–2932 and R–2933 to absorb R–2931. The FAA is taking this action in response to a written notification from the U.S. Air Force that R–2931 is no longer necessary to support an Air Force mission requirement.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

Restricted Area R–2931 was established on January 19, 1984, to contain a tethered aerostat balloon which was installed to enhance air defense surveillance and warning. In order to lessen the burden to the flying public, R–2931 was established entirely within two existing restricted areas, R–2924 and R–2925. Effective May 5, 1988, Restricted Areas R–2924 and R–2925 were redesignated as R–2932 and R–2933 as part of an effort to reconfigure and simplify the Cape Canaveral restricted airspace complex (53 FR 6796; March 3, 1988). The U.S. Air Force has notified the FAA that the aerostat operation has now been terminated at this location and that, consequently, R–2931 is no longer required for that purpose. The airspace of R–2931 will be reincorporated into the existing Restricted Areas R–2932 and R–2933.

The Rule

This amendment to 14 CFR part 73 (part 73) revokes Restricted Area R–2931, and modifies R–2932 and R–2933 to absorb R–2931. In addition, this amendment corrects a minor error in one of the R–2932 boundary coordinates. Although R–2932 and R–2933 were established with coincident boundaries, one coordinate in the R–2932 description differs by one second of longitude from the same coordinate in R–2933. This error occurred when the FAA converted all positional data used in the National Airspace System from North American Datum (NAD) 27 to NAD 83 (57 FR 201). During the conversion process, the required correction factor was inadvertently not applied to that one position.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this action simply redefines existing restricted area airspace, and does not involve a change in the overall dimensions or operating requirements of that airspace, the FAA finds that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.29 of 14 CFR part 73 was republished in FAA Order 7400.8E, dated November 7, 1997.

Environmental Review

This action is a minor administrative change that redefines existing restricted airspace. Since R–2931 is totally imbedded within airspace already designated as restricted, there is no change to either the amount of restricted airspace or to any air traffic control procedures or routes as a result of this action.

Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

§ 73.29 [Amended]

2. § 73.29 is amended as follows:

* * * * *

R–2931 Cape Canaveral, FL [Removed]

R–2932 Cape Canaveral, FL [Amended]

By removing ''long. 80°35′00″W.;'' and adding ''long. 80°34′59″W.;'' in its place; and by removing the words, ''excluding the area within a 2-statute-mile radius circle centered at lat. 28°27′55″N., long. 80°32′06″W.''

R–2933 Cape Canaveral, FL [Amended]

By removing the words, ''excluding the area within a 2-statute-mile radius circle centered at lat. 28°27′55″N., long. 80°32′06″W.''

* * * * *

Issued in Washington, DC, on December 9, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–33622 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to functions performed by the Center for Devices and Radiological Health (CDRH). This amendment updates the titles of CDRH delegates and organizational components to reflect the organizational restructuring and also publishes delegations of authority to additional positions within CDRH. This action is intended to ensure the accuracy and consistency of the regulations.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT:

Debra A. Baclawski, Center for Devices and Radiological Health (HFZ–026), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301– 443–1060, or

Donna G. Page, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: CDRH has undergone an organizational restructuring (58 FR 35959, July 2, 1993), which was approved by the Commissioner of Food and Drugs. The authorities delegated to the CDRH officials are amended in this document to reflect new titles and organization placement under the restructuring and also it publishes delegations of authority to additional positions within the center.

The most significant changes are: (1) The establishment of a second Deputy Director in the Office of the Director, CDRH, and in the Office of Device Evaluation; (2) the reorganization and retitling of the Office of Compliance and Surveillance to the Office of Compliance; and (3) the redelegation of authority to each of the Division Directors in the Office of Compliance.

Further redelegation of the authorities delegated is not authorized at this time. Authority delegated to a position may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 61–63, 141–149, 321–394, 467f, 679(b), 801–886, 1031–1309; 35 U.S.C. 156; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1; 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11921, 41 FR 24294, 3 CFR, 1977 Comp., p. 124–131; E.O. 12591, 52 FR 13414, 3 CFR, 1988 Comp., p. 220–223

2. Section 5.22 is amended by revising paragraphs (a)(10)(i), (a)(10)(ii), (a)(10)(iv), and (a)(10)(v) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(10)(i) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(ii) The Associate Director and Deputy Associate Director for Management and Systems, CDRH.

* * * * *

(iv) For medical devices assigned to their respective divisions, the Division Directors, Office of Compliance, CDRH.

(v) Freedom of Information Officers, CDRH.

* * * * *

3. Section 5.23 is amended by revising paragraphs (c)(1) through (c)(4) to read as follows:

§ 5.23 Disclosure of official records.

* * * * *

(c) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(2) The Director and Deputy Director, Office of Compliance, CDRH.

(3) The Director and Deputy, Division of Program Operations, Office of Compliance, CDRH.

(4) The Chief, Information Processing and Automation Branch, Division of Program Operations, Office of Compliance, CDRH.

* * * * *

4. Section 5.25 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 5.25 Research, investigation, and testing programs and health information and health promotion programs.

(a) * * *

(2) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

* * * * *

(b) The Director and Deputy Directors, CDRH, are authorized to establish an electronic product radiation control program and to approve grants for conducting the program under section 356 of the act.

* * * * *

5. Section 5.26 is amended by revising paragraph (c) to read as follows:

§ 5.26 Service fellowships.

* * * * *

(c) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director, Office of Systems and Management, CDRH.

* * * * *

6. Section 5.28 is revised to read as follows:

§ 5.28 Cardiac pacemaker devices and pacemaker leads.

The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under the Social Security Act (42 U.S.C. 1395y(h)(l),(2)(A), and (3)), as amended.

7. Section 5.30 is amended by revising paragraphs (b) and (c)(4) to read as follows:

§ 5.30 Hearings.

* * * * *

(b) The Director and Deputy Directors, CDRH, are authorized to hold hearings, and to designate other officials to hold informal hearings, under section 360(a) of the Public Health Service Act.

(c) * * *

(4) The Director and Deputy Directors, CDRH.

* * * * *

8. Section 5.31 is amended by revising paragraphs (c)(3) and (e)(5) to read as follows:

§ 5.31 Petitions under part 10.

* * * * *

(c) * * *

(3) The Director and Deputy Directors, Center for Devices and Radiological Health.

* * * * *

(e) * * *

(5) The Director and Deputy Directors, CDRH, are authorized to issue 180-day tentative responses to citizen petitions on medical device matters under § 10.30(e)(2)(iii) of this chapter that relate to the assigned functions of that Center.

* * * * *

9. Section 5.33 is amended by revising paragraph (b) to read as follows:

§ 5.33 Premarket approval of a product that is or contains a biologic, a device, or a drug.

* * * * *

(b) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director, Office of Device Evaluation, CDRH.

* * * * *

10. Section 5.37 is amended by revising paragraphs (a)(2)(i) through (a)(2)(iii) and (b)(1) through (b)(3), and by removing paragraph (a)(2)(iv) and removing and reserving (b)(4) to read as follows:

§ 5.37 Issuance of reports of minor violations.

(a) * * *

(2)(i) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(ii) The Director and Deputy Director, Office of Compliance, CDRH.

(iii) For medical devices assigned to their respective divisions, the Division Directors, Office of Compliance, CDRH.

* * * * *

(b) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(2) The Director and Deputy Director, Office of Compliance, CDRH.

(3) For medical devices assigned to their respective divisions, the Division Directors, Office of Compliance, CDRH.

* * * * *

11. Section 5.45 is amended by revising paragraphs (b) introductory text, (c)(1) and (c)(2), and (e)(1)(i) through (e)(1)(iii) to read as follows:

§ 5.45 Imports and exports.

* * * * *

(b) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH); the Director and Deputy Director, Office of Compliance, CDRH; Regional Food and Drug Directors; District Directors; and the Director, St. Louis Branch, are authorized, under section 360 of the Public Health Service Act (PHSA), to perform the following functions or to designate officials to:

* * * * *

(c) * * *

(1) The Director and Deputy Directors, CDRH.

(2) The Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

(e) * * *

(1) * * *

(i) The Director and Deputy Directors, CDRH.

(ii) The Director and Deputy Director, Office of Compliance, CDRH.

(iii) The Director and Deputy Director, Division of Program Operations, Office of Compliance, CDRH.

* * * * *

12. Section 5.46 is revised to read as follows:

§ 5.46 Manufacturer's resident import agents.

The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH) and the Director and Deputy Director, Office of Compliance, CDRH, are authorized to reject manufacturer's designation of import agents under § 1005.25(b) of this chapter.

13. Section 5.47 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 5.47 Detention of adulterated or misbranded medical devices.

* * * * *

(a) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(2) The Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

14. Section 5.49 is amended by revising paragraph (a) to read as follows:

§ 5.49 Authorization to use alternative evidence for determination of the effectiveness of medical devices.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Directors, Office of Device Evaluation, CDRH.

* * * * *

15. Section 5.50 is amended by revising paragraph (a) to read as follows:

§ 5.50 Notification to petitioners of determinations made on petitions for reclassification of medical devices.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH) and the Director and Deputy Directors, Office of Device Evaluation.

* * * * *

16. Section 5.51 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 5.51 Determination of classification of devices.

(a) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH) and the Director and Deputy Directors, Office of Device Evaluation, CDRH.

* * * * *

(b) * * *

(1) The Director and Deputy Directors, CDRH, and the Director, Deputy Directors, Chief of the Premarket Notification Section, Division and Deputy Division Directors, Associate Division Directors, and Branch Chiefs, Office of Device Evaluation, CDRH.

* * * * *

17. Section 5.52 is amended by revising paragraph (a) to read as follows:

§ 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH) and the Director and Deputy Directors, Office of Device Evaluation, CDRH.

* * * * *

18. Section 5.53 is amended by revising paragraphs (a)(1), (b)(1)(i), and (c) to read as follows:

§ 5.53 Approval, disapproval, or withdrawal of approval of product development protocols and applications for premarket approval for medical devices.

(a) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Directors, Office of Device Evaluation, CDRH.

* * * * *

(b)(1) * * *

(i) The Director and Deputy Directors, CDRH, and the Director and Deputy Directors, Office of Device Evaluation, CDRH.

* * * * *

(c) The Director and Deputy Directors, CDRH, for medical devices assigned to

their organization, are authorized to issue notices to announce the approval, disapproval, or withdrawal of approval of a device, and to make publicly available a detailed summary of the information on which the decision was based, under sections 515(d), (e), and (g) and 520(h)(1) of the act.

19. Section 5.54 is amended by revising paragraph (a) to read as follows:

§ 5.54 Determinations that medical devices present unreasonable risk of substantial harm.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

20. Section 5.55 is amended by revising paragraph (a) to read as follows:

§ 5.55 Orders to repair or replace, or make refunds for, medical devices.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

21. Section 5.56 is amended by revising paragraphs (a) and (b) to read as follows:

§ 5.56 Recall authority.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(b) The Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

22. Section 5.57 is amended by revising paragraphs (a) through (c) to read as follows:

§ 5.57 Temporary suspension of a medical device application.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(b) The Director and Deputy Director, Office of Compliance, CDRH.

(c) The Director and Deputy Directors, Office of Device Evaluation, CDRH.

* * * * *

23. Section 5.59 is amended by revising paragraph (a)(1) to read as follows:

§ 5.59 Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions.

(a) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), the Director and Deputy Directors, Office of Device Evaluation, CDRH, and the Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

24. Section 5.60 is amended by revising paragraphs (a)(1) through (a)(4), (a)(6), and (b)(1) through (b)(5) to read as follows:

§ 5.60 Required and discretionary postmarket surveillance.

(a) * * *

(1) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(2) The Director and Deputy Director, Office of Surveillance and Biometrics, CDRH.

(3) The Director and Deputy Director, Division of Postmarket Surveillance, Office of Surveillance and Biometrics, CDRH.

(4) The Director and Deputy Directors, Division Directors and Associate Division Directors, Office of Device Evaluation, CDRH.

* * * * *

(6) The Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

(b) * * *

(1) The Director and Deputy Directors, CDRH.

(2) The Director and Deputy Director, Office of Surveillance and Biometrics, CDRH.

(3) The Director and Deputy Director, Division of Postmarket Surveillance, Office of Surveillance and Biometrics, CDRH.

(4) The Director and Deputy Directors, Office of Device Evaluation, CDRH.

(5) The Director and Deputy Director, Office of Compliance, CDRH.

* * * * *

25. Section 5.78 is amended by revising paragraph (b) to read as follows:

§ 5.78 Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs.

* * * * *

(b) The Director and Deputy Directors, Center for Devices and Radiological Health, are authorized to perform all the functions of the Commissioner of Food and Drugs under section 507 of the act regarding the issuance, amendment, or repeal of regulations pertaining to antibiotic drugs for human use contained in medical devices.

26. Section 5.86 is amended by revising paragraphs (a) and (b), and by removing paragraph (c) to read as follows:

§ 5.86 Variances from performance standards for electronic products.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(b) The Director and Deputy Director, Office of Compliance, CDRH.

27. Section 5.87 is amended by revising paragraphs (a) and (b), and by removing paragraph (c) to read as follows:

§ 5.87 Exemption of electronic products from performance standards and prohibited acts.

* * * * *

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH).

(b) The Director and Deputy Director, Office of Compliance, CDRH.

28. Section 5.88 is revised to read as follows:

§ 5.88 Testing programs and methods of certification and identification for electronic products.

The Director and Deputy Directors, Center for Devices and Radiological Health, (CDRH), and the Director and Deputy Director, Office of Compliance, CDRH, are authorized to review and evaluate industry testing programs under section 358(g) of the Public Health Service Act (the act), and to approve or disapprove alternate methods of certification and identification and to disapprove testing programs upon which certification is based under section 358(h) of the act.

29. Section 5.89 is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 5.89 Notification of defects in, and repair or replacement of, electronic products.

(a) The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), and the Director and Deputy Director, Office of Compliance, CDRH, are authorized to perform all functions of the Commissioner of Food and Drugs, relating to notification of defects in, noncompliance of, and repair or replacement of or refund for, electronic products under section 359 of the Public Health Service Act (the act) and under §§ 1003.11, 1003.22, 1003.31, 1004.2, 1004.3, 1004.4, and 1004.6 of this chapter; and Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized to perform all such functions relating to:

* * * * *

(b) The Director and Deputy Director, Office of Compliance, CDRH, and the

Division Directors, Office of Compliance, CDRH, are authorized to notify manufacturers of defects in, and noncompliance of, electronic products under section 359(e) of the act and under § 1003.11(a) of this chapter; and the chiefs of District Compliance Branches are authorized to perform all such functions relating to:

* * * * *

30. Section 5.90 is revised to read as follows:

§ 5.90 Manufacturers requirement to provide data to ultimate purchasers of electronic products.

The Director and Deputy Directors, Center for Devices and Radiological Health, are authorized to require manufacturers to provide performance and technical data to the ultimate purchaser of electronic products under section 360A(c) of the Public Health Service Act.

31. Section 5.91 is revised to read as follows:

§ 5.91 Dealer and distributor direction to provide data to manufacturers of electronic products.

The Director and Deputy Directors, Center for Devices and Radiological Health (CDRH), the Director and Deputy Director, Office of Compliance, CDRH, and the Division Directors, Office of Compliance, CDRH, are authorized to direct dealers and distributors of electronic products to furnish information on first purchasers of such products to the manufacturer of the product under section 360A(f) of the Public Health Service Act.

32. Section 5.92 is revised to read as follows:

§ 5.92 Acceptance of assistance from State and local authorities for enforcement of radiation control legislation and regulations.

The Director and Deputy Directors, Center for Devices and Radiological Health, are authorized to accept assistance from State and local authorities engaged in activities related to health or safety or consumer protection on a reimbursable basis or otherwise, under section 360E of the Public Health Service Act.

Dated: December 16, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33482 Filed 12–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Decoquinate and Bacitracin Zinc With Roxarsone

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 an abbreviated new animal drug application (ANADA) filed by ALPHARMA INC. The ANADA provides for using approved decoquinate, bacitracin zinc, and roxarsone Type A medicated articles to make Type C medicated broiler chicken feeds used for prevention of coccidiosis, increased rate of weight gain, and improved feed efficiency.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Gilbert, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1602.

SUPPLEMENTARY INFORMATION: ALPHARMA INC., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of ANADA 200–206 that provides for combining approved decoquinate, bacitracin zinc, and roxarsone Type A medicated articles to make Type C medicated feeds for broilers containing decoquinate 27.2 grams per ton (g/t) and bacitracin zinc 12 to 50 g/t with roxarsone 11 to 45 g/t. The Type C medicated feed is used for the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. mivati*, *E. maxima*, and *E. brunetti*, and for increased rate of weight gain and improved feed efficiency.

ALPHARMA INC.'s, ANADA 200–206 is approved as a generic copy of Rhone Poulenc Inc.'s NADA 91–326. The ANADA is approved as of December 24, 1997 and the regulations are amended in 21 CFR 558.195(d) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

This approval is for use of three single ingredient Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, roxarsone, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved form FDA 1900 is required to make a Type C medicated feed from a Category II drug. Under section 512(m) of the act (21 U.S.C. 360b(m)), as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), medicated feed applications have been replaced by a requirement for feed mill licenses. Therefore, use of decoquinate, bacitracin zinc, and roxarsone Type A medicated articles to make Type C medicated feeds as provided in NADA 200–206 is limited to manufacture in a licensed feed mill.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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

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 of Food and Drugs 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: 21 U.S.C. 360b, 371.

§ 558.195 [Amended]

2. Section 558.195 *Decoquinate* is amended in the table in paragraph (d) in the entry for ''27.2 (0.003 pct), Roxarsone 11 to 45 (0.0012–0.005 pct.) plus Bacitracin 12 to 50'' under ''Limitations'' by removing ''No. 011716'' and adding in its place ''Nos. 011716 and 046573''.

Dated: October 30, 1997.

Stephen F. Sundlof,

Director, Center for Veterinar Medicine.

[FR Doc. 97–33638 Filed 12–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 806

[Docket No. 91N–0396]

Medical Devices; Reports of Corrections and Removals; Stay of Effective Date of Information Collection Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Stay of effective date of a final regulation.

SUMMARY: The Food and Drug Administration (FDA) is staying the effective date of the information collection requirements of a final rule to implement the provisions of the Safe Medical Devices Act of 1990 (the SMDA) regarding reports of corrections and removals of medical devices. FDA is taking this action because the information collection requirements in the final rule have not yet been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA). In the **Federal Register** of November 26, 1997, FDA announced that it sent the proposed information collection to OMB for review and clearance.

DATES: Effective November 17, 1997, sections 806.10 and 806.20, which contain information collection requirements published at 62 FR 27183, May 19, 1997, are stayed pending OMB clearance of the information collection requirements. FDA will announce the effective date of these sections in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2974.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 19, 1997 (62 FR 27183), FDA issued a final rule implementing the provisions of the SMDA concerning reports of corrections and removals of medical devices. The rule was scheduled to become effective on November 17, 1997. In the preamble to the final rule, FDA provided for a 60-day comment period on the information collection requirements of the rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), which was enacted after the publication of the proposed rule on reports of corrections and removals of medical devices.

In the preamble to the final rule, FDA announced that it would review the comments received, make revisions as necessary to the information collection requirements, and submit the requirements to OMB for approval. FDA received four comments and has reviewed and responded to them and has submitted the information collection requirements to OMB for approval. A notice published in the **Federal Register** of November 26, 1997 (62 FR 63182), informs the public how to address comments on the information collection provisions to OMB.

The Administrative Procedure Act and FDA regulations provide that the agency may issue a regulation without notice and comment procedures when the agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(3)(B); 21 CFR 10.40(e)(1)). FDA finds there is good cause for dispensing with notice and comment procedures on this amendment to stay the effective date of the information collection requirements of the final rule on reports of corrections and removals until such time as OMB approves these requirements. Engaging in notice and comment rulemaking is unnecessary because the information collection provisions cannot become effective until such time as FDA obtains OMB approval of them. Moreover, notice and comment rulemaking is impracticable and contrary to the public interest in this case. There is not enough time to solicit a new round of notice and comment on the issue of establishing a delayed effective date for these information collection requirements without further delaying the implementation of this provision of the SMDA. Dispensing with notice and comment rulemaking provides that the information collection requirements of the reports of corrections and removals rule will go into effect at the earliest possible date after OMB review and clearance. FDA will announce the effective date of the information collection requirements of the final rule in a future issue of the **Federal Register**.

List of Subjects in 21 CFR Part 806

Corrections and removals, Medical devices, Reporting and recordkeeping requirements.

Therefore, under sections 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393) and under authority delegated to the Commissioner of Food and Drugs, §§ 806.10 and 806.20, published in the **Federal Register** of May 19, 1997 (62 FR 27183), are stayed until further notice.

Dated: December 16, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33418 Filed 12–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

22 CFR Parts 120, 123, 124, 126, 127, and 129

[Public Notice 2602]

Bureau of Political-Military Affairs; Amendments to the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends certain provisions of the International Traffic in Arms Regulations (ITAR) in order to reflect recent changes to the Arms Export Control Act (AECA).

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Mary F. Sweeney, Compliance and Enforcement Branch, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (703) 875–6644.

SUPPLEMENTARY INFORMATION: Section 1045(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) added a new paragraph 12 to section 36(a) of the AECA requiring a report on all concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin.

Section 141 of the Defense and Security Assistance Improvements Act of 1996 (Public Law 104–164) amended and restated the requirements in section 36(c) and (d) of the AECA for certification to Congress of certain proposed exports and technical assistance or manufacturing license agreements, generally reducing the time for transfers involving member countries of the North Atlantic Treaty Organization, Australia, Japan and New Zealand.

Section 151 of Public Law 104–164 added a new clause (ii) to Subsection (b)(1)(A) of section 38 of the AECA requiring the registration and licensing of persons who engage in the business of brokering activities of defense articles and defense services.

Section 156 of Public Law 104–164 amended section 38(e) of the AECA, providing that certain types of information shall not be withheld from public disclosure unless the President

determines that the release of such information would be contrary to the national interest.

Section 144 of Public Law 104–164 amended and restated certain definitions contained in Section 47 of the AECA.

The civil penalty amount is in accordance with 22 U.S.C. 2778, 2779a and 2780.

In order to ensure consistent application of the ITAR as provided in law, Parts 120, 123, 124, 126, and 127 are being amended and a new Part 129 is being established.

Part 129 contains guidance concerning persons required to register as brokers and the types of brokering activities that require prior approval of the Department of State. As a general matter, any person in the United States or otherwise subject to U.S. jurisdiction who is in the business of brokering transfers of defense articles or services is required to register and pay a fee. This would include for example, persons who act as agents for others in arranging arms deals, as well as so-called finders and other persons who facilitate such deals. Certain exemptions to this requirement are also established, however, such as persons exclusively in the business of financing or transporting defense articles whose business activities do not include brokering arms deals. Certain prohibitions are also established in Part 129 concerning brokering activities associated with defense articles and defense services involving ineligible countries or persons, such as those countries for which the United States maintains an arms embargo and those persons debarred from receiving U.S. munitions licenses owing to previous violations of U.S. law. Part 129 identifies those circumstances or defense articles for which either prior written approval by, or prior notification to, the Department of State is necessary, and also specifies exemptions to these requirements. Further, Part 129 provides a procedure by which persons may seek guidance from the Department of State in respect to the possible application of these requirements to their activities.

These amendments involve a foreign affairs function of the United States. They are excluded from review under Executive Order 12866 (69 FR 51735) and 9 U.S.C. 553 and 554, but have been reviewed internally by the Department to ensure consistency with the purposes thereof.

In accordance with 5 U.S.C. 808, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (the ''Act''), the Department of State has found for foreign policy reasons that notice and public procedure under section 251 of the Act is impracticable and contrary to the public interest. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Room 200, SA–6, Washington, D.C. 20520–0602.

List of Subjects

22 CFR Part 120

Arms and munitions, Exports, Technical assistance.

22 CFR Part 123

Arms and munitions, Exports, Technical assistance.

22 CFR Part 124

Arms and munitions, Exports, Technical assistance.

22 CFR Part 126

Arms and munitions, Exports.

22 CFR Part 127

Arms and munitions, Exports.

22 CFR Part 129

Arms and munitions, Exports, Technical assistance.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Parts 120, 123, 124, 126 and 127 are amended and Part 129 is established as follows:

PART 120—PURPOSE AND DEFINITIONS

1. The authority citation for part 120 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2658.

2. In § 120.7 paragraph (a) is revised to read as follows:

§ 120.7 Significant military equipment.

(a) *Significant military equipment* means articles for which special export controls are warranted because of their capacity for substantial military utility or capability.

* * * * *

3. Section 120.9 is revised to read as follows:

§ 120.9 Defense service.

(a) *Defense service* means:

(1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles;

(2) The furnishing to foreign persons of any technical data controlled under this subchapter (see § 120.10), whether in the United States or abroad; or

(3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice. (See also § 124.1.)

(b) [Reserved]

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

4. The authority citation for part 123 is revised to read as follows:

Authority: Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR 1977 Comp. 79; 22 U.S.C. 2658.

5. Section 123.15 is revised to read as follows:

§ 123.15 Congressional notification for licenses.

(a) All exports of major defense equipment, as defined in § 120.8 of this subchapter, sold under a contract in the amount of $14,000,000 or more, or exports of defense articles and defense services sold under a contract in the amount of $50,000,000 or more, may take place only after the Office of Defense Trade Controls notifies the exporter through issuance of a license or other approval that Congress has not enacted a joint resolution prohibiting the export and:

(1) In the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization, or Australia, Japan or New Zealand, 15 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(c)(1); or

(2) In the case of a license for an export to any other destination, 30 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(c)(1).

(b) Persons who intend to export defense articles and defense services pursuant to any exemption in this subchapter (e.g., § 126.5 of this subchapter) under the circumstances described in the first sentence of paragraph (a) of this section must notify the Office of Defense Trade Controls by letter of the intended export and, prior to transmittal to Congress, provide a

signed contract and a DSP–83 signed by the applicant, the foreign consignee and end-user.

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT AND OTHER DEFENSE SERVICES

6. The authority citation for Part 124 continues to read as follows:

Authority: Secs. 2, 38 and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658.

7. Section 124.4 is revised to read as follows:

§ 124.4 Deposit of signed agreements with the Office of Defense Trade Controls.

(a) The United States party to a manufacturing license or a technical assistance agreement must file one copy of the concluded agreement with the Office of Defense Trade Controls not later than 30 days after it enters into force. If the agreement is not concluded within one year of the date of approval, the Office of Defense Trade Controls must be notified in writing and be kept informed of the status of the agreement until the requirements of this paragraph or the requirements of (124.5 are satisfied.

(b) In the case of concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin, a written statement must accompany filing of the concluded agreement with the Office of Defense Trade Controls, which shall include:

(1) The identity of the foreign countries, international organization, or foreign firms involved;

(2) A description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced:

(3) A description of any restrictions on third-party transfers of the foreign-manufactured articles; and

(4) If any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls to ensure compliance with restrictions in the agreement on production quantities and third-party transfers.

8. Section 124.11 is revised to read as follows:

§ 124.11 Certification to Congress for agreements.

Regardless of dollar value, a Technical Assistance Agreement or a Manufacturing License Agreement that involves the manufacture abroad of any item of significant military equipment (as defined in § 120.7 of this subchapter) shall be certified to Congress by the Department as required by 22 U.S.C. 2776(d). Additionally, any technical assistance agreement or manufacturing license agreement providing for the export of major defense equipment, as defined in § 120.8, sold under a contract in the amount of $14 million or more, or of defense articles or defense services sold under a contract in the amount of $50 million or more, shall be certified to Congress by the Department as required by 22 U.S.C. 2776(c)(1). The Office of Defense Trade Controls will not approve agreements requiring Congressional notification unless Congress has not enacted a joint resolution prohibiting the agreement and:

(a) In the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand, at least 15 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(d); or

(b) In the case of an agreement for or in any other country, at least 30 calendar days have elapsed since receipt by the Congress of the certification required by 22 U.S.C. 2776(d).

PART 126—GENERAL POLICIES AND PROVISIONS

9. The authority citation for Part 126 is revised to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2778; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899.

10. In § 126.10 paragraph (b) is revised to read as follows:

§ 126.10 Disclosure of information.

* * * * *

(b) *Determinations required by law.* Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778) provides by reference to certain procedures of the Export Administrative Act that certain information required by the Department of State in connection with the licensing process may generally not be disclosed to the public unless certain determinations relating to the national interest are made in accordance with the procedures specified in that provision, except that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that release of such information would be contrary to the national interest. Determinations required by section 38(e) shall be made by the Assistant Secretary for Political-Military Affairs.

* * * * *

PART 127—VIOLATIONS AND PENALTIES

11. The authority citation for part 127 is revised to read as follows:

Authority: Secs. 2, 38, and 42, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); E.O. 11958, 42 FR 4311, 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 401; 22 U.S.C. 2658; 22 U.S.C. 2779a; 22 U.S.C. 2780.

12. In § 127.10 paragraph (a) is revised to read as follows:

§ 127.10 Civil penalty.

(a) The Assistant Secretary of State for Political-Military Affairs, Department of State, is authorized to impose a civil penalty in an amount not to exceed that authorized by 22 U.S.C. 2778, 2779a and 2780 for each violation of 22 U.S.C. 2778, 2779a and 2780, or any regulation, order, license or approval issued thereunder. This civil penalty may be either in addition to, or in lieu of, any other liability or penalty which may be imposed.

* * * * *

13. Part 129 is added to read as follows:

PART 129—REGISTRATION AND LICENSING OF BROKERS

Sec.
129.1 Purpose.
129.2 Definitions.
129.3 Requirement to register.
129.4 Registration statement and fees.
129.5 Policy on embargoes and other proscriptions.
129.6 Requirement for license/approval.
129.7 Prior approval (license).
129.8 Prior notification.
129.9 Reports.
129.10 Guidance.

Authority: Sec. 38, Pub. L. 104–164, 110 Stat. 1437, (22 U.S.C. 2778).

§ 129.1 Purpose.

Section 38(b)(1)(A)(ii) of the Arms Export Control Act (22 U.S.C. 2778) provides that persons engaged in the business of brokering activities shall register and pay a registration fee as prescribed in regulations, and that no person may engage in the business of brokering activities without a license issued in accordance with the Act.

§ 129.2 Definitions.

(a) *Broker* means any person who acts as an agent for others in negotiating or

arranging contracts, purchases, sales or transfers of defense articles or defense services in return for a fee, commission, or other consideration.

(b) *Brokering activities* means acting as a broker as defined in § 129.2(a), and includes the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service, irrespective of its origin. For example, this includes, but is not limited to, activities by U.S. persons who are located inside or outside of the United States or foreign persons subject to U.S. jurisdiction involving defense articles or defense services of U.S. or foreign origin which are located inside or outside of the United States. But, this does not include activities by U.S. persons that are limited exclusively to U.S. domestic sales or transfers (e.g., not for export or re-transfer in the United States or a foreign person).

(c) The term ''foreign defense article or defense service'' includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

§ 129.3 Requirement to Register.

(a) Any U.S. person, wherever located, and any foreign person located in the United States or otherwise subject to the jurisdiction of the United States (notwithstanding § 120.1(c)), who engages in the business of brokering activities (as defined in this part) with respect to the manufacture, export, import, or transfer of any defense article or defense service subject to the controls of this subchapter (see § 121) or any ''foreign defense article or defense service'' (as defined in § 129.2) is required to register with the Office of Defense Trade Controls.

(b) Exemptions. Registration under this section is not required for:

(1) Employees of the United States Government acting in official capacity.

(2) Employees of foreign governments or international organizations acting in official capacity.

(3) Persons exclusively in the business of financing, transporting, or freight forwarding, whose business activities do not also include brokering defense articles or defense services. For example, air carriers and freight forwarders who merely transport or arrange transportation for licensed United States Munitions List items are not required to register, nor are banks or credit companies who merely provide commercially available lines or letters of credit to persons registered in accordance with Part 122 of this subchapter required to register. However, banks, firms, or other persons providing financing for defense articles or defense services would be required to register under certain circumstances, such as where the bank or its employees are directly involved in arranging arms deals as defined in § 129.2(a) or hold title to defense articles, even when no physical custody of defense articles is involved.

§ 129.4 Registration statement and fees.

(a) *General.* The Department of State Form DSP–9 (Registration Statement) and a transmittal letter meeting the requirements of § 122.2(b) of this subchapter must be submitted by an intended registrant with a payment by check or money order payable to the Department of State of one of the fees prescribed in § 122.3(a) of this subchapter. The Registration Statement and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant shall also submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States.

(b) A person required to register under this part who is already registered as a manufacturer or exporter in accordance with part 122 of this subchapter must also provide notification of this additional activity by submitting to the Office of Defense Trade Controls by registered mail a transmittal letter meeting the requirements of § 122.2(b) and citing the existing registration, and must pay an additional fee according to the schedule prescribed in § 122.3(a). Any person who registers coincidentally as a broker as defined in § 129.2 of this subchapter and as a manufacturer or exporter must submit a Registration Statement that reflects the brokering activities, the § 122.2(b) transmittal letter, as well as the additional fee for registration as a broker.

(c) Other provisions of part 122, in particular, § 122.4 concerning notification of changes in information furnished by registrants and § 122.5 concerning maintenance of records by registrants, apply equally to registration under this part (part 129).

§ 129.5 Policy on embargoes and other proscriptions.

(a) The policy and procedures set forth in this subparagraph apply to brokering activities defined in § 129.2 of this subchapter, regardless of whether the persons involved in such activities have registered or are required to register under § 129.3 of this subchapter.

(b) No brokering activities or brokering proposals involving any country referred to in § 126.1 of this subchapter may be carried out by any person without first obtaining the written approval of the Office of Defense Trade Controls.

(c) No brokering activities or proposal to engage in brokering activities may be carried out or pursued by any person without the prior written approval of the Office of Defense Trade Controls in the case of other countries or persons identified from time to time by the Department of State through notice in the **Federal Register**, with respect to which certain limitations on defense articles or defense services are imposed for reasons of U.S. national security or foreign policy (e.g., Cyprus, Guatemala, Yemen) or law enforcement interests (e.g., an individual subject to debarment pursuant to § 127.7 of this subchapter).

(d) No brokering activities or brokering proposal may be carried out with respect to countries which are subject to United Nations Security Council arms embargo (see also § 121.1(c)).

(e) In cases involving countries or persons subject to paragraph (b), (c), or (d), above, it is the policy of the Department of State to deny requests for approval, and exceptions may be granted only rarely, if ever. Any person who knows or has reason to know of brokering activities involving such countries or persons must immediately inform the Office of Defense Trade Controls.

§ 129.6 Requirement for License/Approval.

(a) No person may engage in the business of brokering activities without the prior written approval (license) of, or prior notification to, the Office of Defense Trade Controls, except as follows:

(b) A license will not be required for:

(1) Brokering activities undertaken by or for an agency of the United States Government—

(i) for use by an agency of the United States Government; or

(ii) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(2) Brokering activities that are arranged wholly within and destined exclusively for the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand, except in the case of the defense articles or defense services specified in § 129.7(a) of this

subchapter, for which prior approval is always required.

§ 129.7 Prior Approval (License).

(a) The following brokering activities require the prior written approval of the Office of Defense Trade Controls:

(1) Brokering activities pertaining to certain defense articles (or associated defense services) covered by or of a nature described by Part 121, to or from any country, as follows:

(i) Fully automatic firearms and components and parts therefor;

(ii) Nuclear weapons strategic delivery systems and all components, parts, accessories, attachments specifically designed for such systems and associated equipment;

(iii) Nuclear weapons design and test equipment of a nature described by Category XVI of Part 121;

(iv) Naval nuclear propulsion equipment of a nature described by Category VI(e);

(v) Missile Technology Control Regime Category I items (§ 121.16);

(vi) Classified defense articles, services and technical data;

(vii) Foreign defense articles or defense services (other than those that are arranged wholly within and destined exclusively for the North Atlantic Treaty Organization, Japan, Australia, or New Zealand (see §§ 129.6(b)(2) and 129.7(a)).

(2) Brokering activities involving defense articles or defense services covered by, or of a nature described by, Part 121, in addition to those specified in § 129.7(a), that are designated as significant military equipment under this subchapter, for or from any country not a member of the North Atlantic Treaty Organization, Australia, New Zealand, or Japan whenever any of the following factors are present:

(i) The value of the significant military equipment is $1,000,000 or more;

(ii) The identical significant military equipment has not been previously licensed for export to the armed forces of the country concerned under this subchapter or approved for sale under the Foreign Military Sales Program of the Department of Defense;

(iii) Significant military equipment would be manufactured abroad as a result of the articles or services being brokered; or

(iv) The recipient or end user is not a foreign government or international organization.

(b) The requirements of this section for prior written approval are met by any of the following:

(1) A license or other written approval issued under parts 123, 124, or 125 of this subchapter for the permanent or temporary export or temporary import of the particular defense article, defense service or technical data subject to prior approval under this section, provided the names of all brokers have been identified in an attachment accompanying submission of the initial application; or

(2) A written statement from the Office of Defense Trade Controls approving the proposed activity or the making of a proposal or presentation.

(c) Requests for approval of brokering activities shall be submitted in writing to the Office of Defense Trade Controls by an empowered official of the registered broker; the letter shall also meet the requirements of § 126.13 of this subchapter.

(d) The request shall identify all parties involved in the proposed transaction and their roles, as well as outline in detail the defense article and related technical data (including manufacturer, military designation and model number), quantity and value, the security classification, if any, of the articles and related technical data, the country or countries involved, and the specific end use and end user(s).

(e) The procedures outlined in § 126.8(c) through (g) are equally applicable with respect to this section.

§ 129.8 Prior Notification.

(a) Prior notification to the Office of Defense Trade Controls is required for brokering activities with respect to significant military equipment valued at less than $1,000,000, except for sharing of basic marketing information (e.g., information that does not include performance characteristics, price and probable availability for delivery) by U.S. persons registered as exporters under Part 122.

(b) The requirement of this section for prior notification is met by informing the Office of Defense Trade Controls by letter at least 30 days before making a brokering proposal or presentation. The Office of Defense Trade Controls will provide written acknowledgment of such prior notification to confirm compliance with this requirement and the commencement of the 30-day notification period.

(c) The procedures outlined in § 126.8(c) through (g) are equally applicable with respect to this section.

§ 129.9 Reports.

(a) Any person required to register under this part shall provide annually a report to the Office of Defense Trade Controls enumerating and describing its brokering activities by quantity, type, U.S. dollar value, and purchaser(s) and recipient(s), license(s) numbers for approved activities and any exemptions utilized for other covered activities.

§ 129.10 Guidance.

(a) Any person desiring guidance on issues related to this part, such as whether an activity is a brokering activity within the scope of this Part, or whether a prior approval or notification requirement applies, may seek guidance in writing from the Office of Defense Trade Controls. The procedures and conditions stated in § 126.9 apply equally to requests under this section.

Dated: November 24, 1997.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 97–33649 Filed 12–23–97; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 251

RIN 1010–AC10

Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule revises MMS' regulations and expands the Notice requirement to include all oil, gas, and sulphur related G&G scientific research not conducted under a permit. The revisions also update the addresses for applying for a permit or filing a Notice, standardize definitions, describe the procedures for protecting archaeological resources, reflect changes in technology, and clarify the obligations of third parties who obtain G&G data and information collected under a permit. These revisions are being made because there have been instances of commercial G&G exploration being conducted by academia without a permit, the addresses for all the MMS regions have changed, changes in technology need to be incorporated, and permittees and third parties have questioned MMS access to certain G&G data and information that were collected under a permit and further processed by third parties. The modifications will enable MMS to better ensure safe use and environmental protection of the outer continental shelf (OCS) for all G&G related operations, expedite permit applications and Notices to MMS, and make the regulatory language clearer

and more understandable. MMS also believes that it is necessary to more clearly assert its authority to acquire G&G data and information.

Access to these data and information is needed to ensure that the U.S. Government receives fair market value on leases, especially in areas of complex geology, and for the Government to conduct analyses or assessments for royalty relief and other purposes.

EFFECTIVE DATE: January 23, 1998.

FOR FURTHER INFORMATION CONTACT: David R. Zinzer, Resource Evaluation Division, (703) 787–1515 or Kumkum Ray, Rules Processing Team, 703) 787–1600.

SUPPLEMENTARY INFORMATION: This final rule implements changes put forward by our notice of proposed rulemaking (NPR) that was published February 11, 1997 (62 FR 6149) and which solicited public comments. The comment period was extended twice, the last extension ending July 29, 1997. We met with industry twice during the comment period, May 15 in Washington, D.C., and July 10 in New Orleans, LA. We received 22 sets of written comments and recommendations in response to the NPR. Ten of these comments and recommendations were from industry associations, and twelve were from permittees and third party users of G&G data and information collected on the OCS. We have carefully considered each of these comments and recommendations. We did not adopt recommendations that did not appear to be in the public's best interest.

In order to assist industry in understanding how MMS will implement the final rule, MMS will conduct a meeting with industry and other interested parties in the Gulf of Mexico Region following publication of a meeting time in the **Federal Register**.

Discussion and Analysis of Comments

Some commenters requested that MMS withdraw the final rule in its entirety and/or conduct a negotiated rulemaking, citing adverse effects on the oil and gas industry, including oil and gas producers, independent oil and gas companies, and geophysical service companies, accompanied by a significant reduction in the amount of data collection and exploration by industry.

MMS has decided to proceed with the final rule after carefully considering all written comments on the proposed rulemaking and after lengthy discussions with industry at the meetings in Washington, D.C., and New Orleans, Louisiana. MMS appreciates the candor and scope of the many comments that were put forth and the concerns of the industry. However, we believe that specific concerns with the proposed rulemaking have been addressed properly, and that where MMS and industry disagree, MMS is acting appropriately as the Federal agency required by the OCS Lands Act (OSCLA) to manage the oil and natural gas resources of the OCS in an environmentally responsible and safe manner. MMS must oversee G&G explorations on the OCS in an orderly and fair manner, balancing the needs of industry and the public interest.

Some commenters questioned whether MMS had performed the analysis required under the Regulatory Flexibility Act, or made an estimate of how much it would cost the exploration and production industry to comply with the proposed revisions to part 251. These comments cited the potential administrative burdens of the proposed changes and their significant impact on the ability of smaller companies to compete in the Gulf of Mexico. MMS has addressed these concerns under the section of the preamble titled, ''Regulatory Flexibility Act.''

Section-by-Section Analysis

Section 251.1 Definitions

The definition of *exploration* was expanded to include marine and airborne surveys. Although MMS proposed changing the definition of *human environment,* several comments criticized the proposed wording as broad and ambiguous. MMS agrees to retain the existing definition.

The definitions of *lease* and *lessee* were changed to read the same as the definitions in part 250.

The definitions of *archaeological interest, material remains,* and *significant archaeological resource* were added to explain archaeological protection requirements in part 251. The language adopted in this rule is the same as that used in part 250.

The definition of *third party* was clarified to include all persons who, by whatever means, obtained from permittees or other third parties G&G data or information collected under a permit.

The definition of *you* was changed in response to comments that the definition in the proposed rule was too vague and broad and should not include persons who only inquire about a permit or Notice. *You* also applies to third parties who assume certain responsibilities under §§ 251.11 and 251.12.

Section 251.2 Purpose of This Part

Paragraph (d) was added to this section to clarify the U.S. Government's right to certain data and information, explain MMS' obligation to pay certain reimbursements, and set out MMS' procedures for safeguarding proprietary and privileged data and information acquired from industry and other sources.

Section 251.3 Authority and Applicability of This Part

One commenter questioned whether, under the OCSLA, the Secretary of the Interior (Secretary) could allow G&G exploration under a Notice, instead of requiring a permit. Section 11 of the OCSLA (43 U.S.C. 1340) gives the Secretary the authority to allow geological and geophysical exploration. Because of the commercial nature of the activity, MMS believes that it is preferable to require that G&G exploration be conducted only under the auspices of a permit. G&G scientific research can be conducted either under a permit or by filing a Notice, depending on the activity being conducted.

The commenter also asked under what authority the Secretary applies MMS regulations to ships or vessels, and exempts Federal agencies from the permit procedures. The OCSLA definition of *exploration* includes geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of minerals. Ships and vessels are commonly used in, and are an integral part of, geophysical surveys. Therefore, it is necessary to apply MMS'' regulations to them. The definition of *person* in the OCSLA does not include Federal agencies. Thus, Federal agencies are not authorized as *persons* by the Secretary to conduct G&G explorations in the OCS and thus are not subject to part 251.

Finally, the same commenter found no regulatory language dealing with the Secretary's review or approval of permit applications or time limits to take action on applications. While section 11 of the OCSLA authorizes the Secretary to issue permits for exploration, it does not require the Secretary to set forth time limits to issue permits. The authority to review and approve permit applications is delegated to the appropriate MMS Regional Director who exercises this authority under §§ 251.5 and 251.7, and sets the administrative time limits to review and approve permit applications. Time limits may vary in each OCS Region. Response times to permit applications have not been an issue in the past.

Section 251.4 Types of G&G Activities That Require Permits or Notices

Several commenters asked whether commercial G&G research related to developing or testing new equipment or techniques would require a permit or could be conducted under a Notice. As mentioned earlier, MMS believes that a Notice is not appropriate for commercial G&G activities. Basically, whether the G&G company calls the activity ''research'' or ''exploration'' is not important. A permit is required if the data collected from the ''research'' activity can be used in exploration for oil, gas, or sulphur, or if the ''research'' activity involves solid or liquid explosives, or deep stratigraphic tests. Other research activities that only involve developing or testing new equipment or techniques do not require a permit.

The underlying concern of the commenters, however, seemed to be whether they were required to give MMS the testing and development work they perform when a permit is required. Generally, descriptions of new equipment, techniques, computer hardware/software, or the results of tests on those items do not need to be given to MMS. However, if these items were used to produce G&G data and information which must be submitted to MMS, it may be necessary to provide some explanatory information to MMS in order to allow the agency to properly evaluate the data and information.

Section 251.5 Applying for Permits or Filing Notices

One commenter, addressing § 251.5(c)(7), noted that collaboration on research between industry and universities may make it difficult to estimate the ''earliest time'' that data will be available to the public. MMS recognizes this difficulty and only requires a good faith estimate of the time that scientific research data and information will be released to the public. To alleviate these concerns, MMS has inserted the word ''practicable'' between ''earliest'' and ''time'' to conform with the wording used in part 251 since 1976.

Section 251.6 Obligations and Rights Under a Permit or a Notice.

One commenter objected to the use of ''human environment'' in § 251.6(a)(2), citing subjective judgments regarding the term ''quality of life'', which was part of the proposed definition of ''human environment.'' The definition of ''human environment'' was not changed in response to this and other comments. However, the word ''property'' is added to § 251.6(a)(2) to make the obligation under this part conform with the standards in part 250 which apply to operations under a lease, right of use or easement, or right-of-way. Several commenters objected to the wording of § 251.6(a)(7) which removed the word ''unreasonably'' from the requirement to not interfere with or cause harm to other users of an area. We agree, and ''unreasonably'' will be re-inserted before the word ''interfere'.

Several commenters objected to new wording in § 251.6(c) that requires entities conducting G&G operations to consult with and coordinate their operational activities with specific users of an area. The commenters argued that consultation is not always practicable and that, in certain cases, proprietary information regarding the timing and location of planned surveys would be unfairly revealed to competitors. The wording has been changed to reflect that MMS's intent is for companies to consult and coordinate their G&G activities solely for navigational and safety purposes. MMS also recognizes that the International Association of Geophysical Contractors acts on behalf of the geophysical survey companies to coordinate its members' activities through a time sharing system to promote safe operations and protect members' proprietary survey designs and plans.

Several commenters objected to proposed language which expands the use of the best available and safest technologies (*BAST*) beyond the area of test drilling requirements. The wording in § 251.6(d) is changed to make clear that the BAST requirement only applies to shallow test drilling and deep stratigraphic test drilling conducted under a permit.

Section 251.7 Test Drilling Activities Under a Permit

One commenter suggested deleting § 251.7(a)(2), stating that MMS cannot mandate compliance of shallow test drilling activities with requirements of the Coastal Zone Management Act (CZMA). We agree that MMS cannot establish requirements under the auspices of the CZMA. However, we disagree that the proposed language creates a new mandate. Section 251.7(a)(2) simply advises permit applicants that MMS may require submittal of consistency certification when a federally approved coastal management program requires consistency review.

Section 251.7(b)(5), ''Protecting archaeological resources,'' is revised in the final rule to make the wording conform with similar requirements in part 250. Also, as mentioned previously, new definitions related to archaeological resources were added in the definitions section to better explain the requirements of this section.

Section 251.8 Inspection and Reporting Requirements for Activities Under a Permit

One commenter questioned our proposed removal of the word ''actual'' from the term ''actual costs'' in determining the amount of reimbursement to a permittee when MMS inspectors are required to be accommodated during activities authorized under part 251. The point of the proposed change was to impose a 90-day time limit for reimbursement requests so that MMS can quickly clear such expenses. Permittees will be reimbursed for actual expenses incurred as long as their request for reimbursement is made within the 90-day period.

Some commenters noted that there was no provision in § 251.8(b) for permittees to make oral requests to MMS for modifications to their programs with a followup in writing, although § 251.4(b)(2) allows a person to file a Notice orally with a followup in writing if circumstances preclude a 30-day advance written Notice. MMS recognizes that there are circumstances when written requests to modify programs are not practicable, and that an oral request with a written followup could be acceptable in such cases. The wording in § 251.8(b) is changed to allow for such oral requests, but we want to emphasize that oral requests for modifications should only be made when necessary.

One commenter sought clarification as to the beginning date of the 30-day period to submit a final report under § 251.8(c)(2). The revised wording indicates that a final report of exploration or scientific research activities under a permit is due within 30 days after completion of ''acquisition activities.''

Section 251.9 Temporarily Stopping, Canceling, or Relinquishing Activities Approved Under a Permit

This section sets out the situation under which MMS will halt ongoing permit activities. Section 251.9(a)(2) was changed to include G&G data and information in the examples of items required by MMS which, if not submitted, could constitute a failure to comply with applicable law, regulation, order, or provision of a permit and result in MMS halting the permit activities.

Section 251.10 Penalties and Appeals

No comments were received regarding § 251.10.

Section 251.11 Inspection, Selection, and Submission of Geological Data and Information Collected Under a Permit and Processed by Permittees or Third Parties

Several commenters objected to the proposed requirement in § 251.11(a)(1) that a permittee notify the Regional Director ''immediately'' after acquiring, analyzing, processing, or interpreting geological data and information, citing excessive paperwork and other burdens. MMS agrees. The wording has been changed to require the permittee to notify the Regional Director after completion of the initial analysis, processing, and interpretation of geological data and information collected under a permit. MMS does not require continual notification of every analysis, processing, and interpretation.

Furthermore, the reference in § 251.11(a)(1) to acquisition of geological data is redundant and was therefore removed, since the requirement for reporting acquisition of geological data resides in § 251.8(c)(2).

Some commenters objected to the proposed wording in § 251.11(c)(1) which requires a record of all geological data and information, ''describing each operation of analysis, processing, and interpretation.'' The commenters considered this a shift of MMS focus from geological information, as defined in part 251, to descriptions of the technologies and techniques used to arrive at processed, analyzed, or interpreted information. It is not the intent of MMS to acquire from industry these types of proprietary or confidential technical information. Therefore, MMS will require only a description of each ''type'' of analysis, processing, or interpretation, as specified in a G&G permit.

Several commenters objected to the provisions in § 251.11(d), relating to the obligations of permittees and third parties who obtain geological data and information. Since the requirements of this section are similar to § 251.12(d), we have combined our discussion of those two sections. Please see the section titled ''Third Party Issues'' for a complete discussion of obligations when G&G data and information collected under a permit are obtained by a third party.

Section 251.12 Inspection, Selection, and Submission of Geophysical Data and Information Collected Under a Permit and Processed by Permittees or Third Parties

Similar to the comments on § 251.11(a)(1), many commenters objected to the requirement in § 251.12(a)(1) that a permittee notify the Regional Director ''immediately'' after initially acquiring, processing, and interpreting any geophysical data and information collected under a permit, again citing excessive costs and other burdens. MMS agrees. The wording is changed to require the permittee to notify the Regional Director after completion of the initial processing and interpretation of geophysical data and information collected under a permit. MMS does not intend to require continual notification of every step of initial processing and interpretation. In addition, the reference in § 251.12(a)(1) to acquisition of geophysical data is redundant and removed, since the requirement for reporting acquisition of geophysical data also resides in § 251.8(c)(2).

Some commenters questioned the provisions in §§ 251.12(c)(2) and 251.12(c)(3) which require that processed geophysical information be submitted to MMS in a ''quality'' format suitable for processing or interpretive evaluation. There was a misunderstanding as to what was meant by ''quality'' format. Here ''quality'' means the same level of format used by a permittee or third party in the normal course of their business.

Some commenters questioned whether MMS was seeking ''black box'' technologies that are privileged and proprietary to the person submitting the G&G data and information. MMS requires only the information, including a detailed format, necessary to load digital data and information. MMS does not request nor seek proprietary software or procedures used to prepare the data and information.

Third Party Issues

Several commenters strongly objected to §§ 251.11(d) and 251.12(d), which clarify the permit obligations placed on both the permittee and the third party when geological and geophysical data and information are transferred by any means to a third party. Most commenters argued that the provisions of §§ 251.11 and 251.12 should not apply to third parties who obtain G&G data and information from permittees through a license agreement since no ''transfer'' of data and information takes place. We disagree. The obligation to notify the Regional Supervisor when a permittee provides geophysical data or processed information to a third party, or a third party provides data and information received from a permittee to another third party, has been in place since part 251 was added to Title 30 of the Code of Federal Regulations, effective June 11, 1976.

MMS has always considered a license agreement a form of transfer or exchange, as are a sale, trade, or other agreement between a permittee and a third party. In order to clarify any confusion resulting from industry's interpretation of what constitutes a transfer, MMS has revised the language of the regulation to make clear that the obligations under §§ 251.11 and 251.12 are triggered whenever a third party obtains by any means data and information collected under a permit. However, in an effort to alleviate industry concerns over the burden and cost of reporting all license agreements, MMS will require identification of third parties who obtain data and information under licensing agreements only in response to a written request by MMS to the permittee, or to the third party which licensed the data to another third party.

The commenters also questioned the statutory authority of MMS to acquire G&G data and information from third parties who obtain the data and information under a license agreement. The authority for obtaining data and information that were collected under a permit and further processed by a third party is at section 11 of the OCSLA (43 U.S.C. 1340 (a)(1)). This section provides that only persons ''authorized'' by the Secretary may conduct G&G activities on the OCS. In the absence of a lease, MMS ''authorization'' is the ''permit.''

One of the terms of the permit is the permittee's agreement to provide MMS with all of the data and information collected, interpretations, etc., and to identify third parties. The regulations in turn, at former §§ 251.11(c) and 251.12 (c) required the recipients of those data and information or interpretation to accept those same permit obligations as a condition of receipt. Third party recipients are still subject to the regulatory requirements of a permittee in the revised §§ 251.11 and 251.12, including the obligation to submit G&G data and information for inspection and possible retention by MMS.

Several commenters stated that there would be an additional administrative burden on third parties who would be required to submit such data and information to MMS for inspection and possible retention, than is the case

under the current regulations. We acknowledge an increase in administrative work and costs to third parties. However, MMS does not consider the extra burden under the revised rule to be significant. Furthermore, the requirement for third parties to submit data and information is not new relative to the requirement of the existing regulations. MMS does anticipate a larger percentage of its data needs coming from third parties. However, we anticipate that most of MMS' future data needs will continue to come directly from permittees, who have provided over 95 percent of processed seismic information that MMS has acquired on the OCS.

Some commenters also claimed that the proposed language would require that third parties assume all responsibilities of permittees, including operational and environmental requirements. That is not the intent of MMS. The responsibilities of third parties to whom data and information were transferred from permittees have always been limited to the data submittal sections of part 251, specifically §§ 251.11 and 251.12. The final rule has been modified so that third parties who obtained data and information are exempt from the §§ 251.11(a)(1) and 251.12(a)(1) requirement of automatic notification to MMS. This exemption is a change from the proposed rulemaking and from previous final rulemakings and will ease the potential administrative burdens on third parties.

Several commenters objected to the provisions that required third parties to submit data and information obtained from permittees to MMS, arguing that the terms of license agreements will be violated and/or license agreements will have to be rewritten to accommodate submittal to MMS, resulting in a large paperwork burden. MMS has always required that third parties assume all the data submittal obligations of a permittee if data and information are transferred to the third party by a permittee. License agreements should therefore have always reflected the possibility of submittal of data and information to MMS by third parties.

Some commenters stated that the acquisition of G&G data and information by MMS from third parties who obtained the data under license agreements is a taking of private property. MMS disagrees. Applicants for a permit accept, as part of the permit terms, an obligation to provide data obtained under the permit to MMS. In addition, applicants agree to require that any third party who obtains the data accept those same obligations. If an applicant is unwilling to agree, they have the choice of not obtaining the permit. Third parties who agree to the requirements can obtain the data from the permittees. Those who choose not to agree also have an option. They simply cannot accept the data without also accepting the obligation imposed by the permit.

Several commenters expressed concern about revealing to MMS the identity of third parties who obtained data and information from permittees. The commenters noted that public disclosure of a third party's identity, or the areas on the OCS for which the third party obtained data, could jeopardize a third party's competitive position and reveal business strategies of operating and obtaining leases on the OCS. MMS agrees that public disclosure of a third party's business interests and strategies, or of other privileged and proprietary information, would have a deleterious effect on third parties. Such information has been protected in the past by MMS, and we are reaffirming through these regulations that such information would continue to be protected by MMS as trade secrets or confidential business information which are exempt from the Freedom of Information Act and not subject to release under regulations which come under the purview of MMS. A new provision in § 251.14(a)(3) provides further protection for third party recipients of data and information collected under permits. Under this provision, MMS will keep confidential the identities of third party recipients and will not release these identities unless both the permittee and the third parties agree to the disclosure.

Several commenters suggested that MMS continue using the ''trial procedures'' set up in 1995 between MMS and industry as a mechanism for leases in the Gulf of Mexico. Under these procedures, bidders on a particular tract were required to submit to MMS specific seismic information collected under a permit and processed by the bidder (a third party). While some of the commenters acknowledged problems with implementation of the ''trial procedures,'' they encouraged MMS to pursue improvements instead of proceeding with this final rule.

MMS has always considered the ''trial procedures'' to be temporary and has indicated such to industry. In the two meetings with industry, MMS cited instances of noncompliance, in some cases perhaps deliberate, with the provisions of the ''trial procedures.'' It is now also becoming apparent that there are data necessary for a thorough assessment of tracts receiving bids that are not available under the ''trial procedures.'' Furthermore, MMS now needs to clarify and finalize the process of obtaining G&G data and information collected under permits for all of the OCS, not only the Gulf of Mexico.

Section 251.14 Protecting and Disclosing Data and Information Submitted to MMS Under a Permit

Some commenters recommended that the Director, MMS, rather than the appropriate Regional Director, be responsible for the provisions of § 251.14(c), the procedure that MMS follows to disclose acquired data and information to a contractor for reproduction, processing, and interpretation. The commenters argued that wrongful disclosure of data could have disastrous consequences from a competitive standpoint, and that ensuring that the top official of MMS is bound by all applicable laws and regulations regarding dissemination of the data would better protect data. We feel that it is unnecessary to specify that only the Director be responsible for disclosure of data or that only the Director can notify the proper party of disclosure of data to contractors for authorized purposes. The Director is still responsible for actions of subordinates acting in an official capacity.

Section 251.14(c) was changed to clarify that the person, whether a permittee or third party, who submitted the data and information under §§ 251.11 or 251.12 will be advised by MMS of any contemplated disclosure to a contractor for reproduction, processing, and interpretation.

In this rulemaking, MMS is also making two corrections in 30 CFR part 250.

The first correction is to § 250.209(c). This technical amendment amends the citation in (c) from ''43 CFR part 62 subpart D'' to ''43 CFR part 12 subpart D.'' The second correction is to subpart O. The numbering of subpart O will be moved down one. The subpart will begin at § 250.210 and end at § 250.234.

Authors: David R. Zinzer, Resource Evaluation Division, and Kumkum Ray, Rules Processing Team.

Executive Order (E.O.) 12866

This rule is not significant under E.O. 12866, ''Regulatory Planning and Review,'' and does not require a review by the Office of Management and Budget (OMB). Most revisions to the rule are generally nonsubstantive changes and will have a negligible economic effect on the oil, gas, sulphur, and mining industries or scientific researchers. Bonding requirements in the rule affect G&G exploration costs as

outlined below. MMS estimated the economic effects by assuming that one deep stratigraphic well will be drilled per year, based on past history of frequency of wells drilled. Bonding requirements for single deep stratigraphic wells recently increased from $50,000 to $200,000; at a 2-percent maximum rate, the bonding cost recently increased from $1,000 to $4,000.

MMS does not expect that any company will drill enough deep stratigraphic wells to warrant an area bond. If a company did want an area bond, then the bonding requirement would increase from $300,000 to $1,000,000; at a 2-percent maximum rate, the bonding cost would increase from $6,000 to $20,000. Since this increase in bonding cost will not have a major economic effect (less than $100 million), the proposed rule is not considered an economically significant rule. Additionally, the proposed revisions will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or raise novel legal or policy issues.

Regulatory Flexibility Act

The changes to 30 CFR part 251 will not have a significant economic effect on the oil and gas industry or small business entities. The final rulemaking may involve small businesses or other small entities if they desire to perform geological or geophysical exploration or scientific research on the OCS. The Small Business Administration defines *a small business* as having:

- Annual revenues of $5 million or less for exploration service and field service companies;
- Less than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

However, a typical exploratory well in the shallow waters of the Gulf of Mexico costs more than $2.7 million to drill; and the acquisition and processing of a single block (9 sq. mi) of exclusive 3D seismic data could cost as much as $1 million. Because of the technical and financial resources needed to perform these activities offshore, the majority of entities conducting these activities are not considered small.

The primary economic effect on small businesses is the cost associated with information collection activities. The final rulemaking contains virtually all of the same reporting requirements and attendant costs as the existing regulations. There is only one change in reporting requirements which represents a small increase. The increased burden is not on the oil and gas industry, but for entities involved in scientific research.

The increased reporting requirement contained in these regulations relates to the filing of a Notice for all scientific research involving geological and geophysical activities. Previously, the requirement for a Notice existed solely for certain geological scientific research activities, namely shallow test drilling. We estimate that the new requirement will result in the filing of an additional two to four Notices annually, all from small entities: 24 to 36 hours; $840 to $1,260.

Several commenters on the proposed regulations commented on the extreme burden that would be imposed on the oil and gas industry if they were made to comply with our clarification of ''transfer.'' They alluded to the need to modify the large number of existing data licenses. MMS does not agree with the contention that there is a material change in the definition. We maintain that the requirement is unchanged from the existing regulations. To the extent existing licenses need to be revised we believe the burden and cost of this revision will not be incurred directly by small business entities. MMS will, however, be making requests directly to small business entities. These new requests will be offset in part by elimination of the current procedures.

MMS concludes that complying with these regulations will not have a substantial or significant effect on small business entities operating on the OCS. MMS in its existing approved information collection budget estimated the total burden in complying with these regulations is 10,604 hours for a total of $371,140. Our estimate of the annual burden to small business entities is approximately 1,060 hours at a cost of $37,100. This represents about 10 percent of the total compliance burden. These costs are insignificant given the fiscal resources required to perform exploration and development activities on the OCS. Furthermore, virtually all of this burden existed under the old rule.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), we submitted the collection of information contained in the proposed rule to OMB. The OMB approved the information collection requirements in proposed 30 CFR part 251, Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf and assigned OMB control number 1010–0048. We have examined the information collection requirements in this final rule and have determined that there is no significant change from the currently approved collection of information for the proposed rule. The estimated annual burden for this collection of information is 10,604 hours, an average of 7.7 hour per response.

Takings Implication Assessment

The rule does not represent a government action capable of interference with constitutionally protected property rights. A new requirement in the rule is a Notice for scientific research in the OCS. Since MMS is not requiring the researcher to submit data and information or analyses resulting from the research activity, there is no direct or indirect taking.

The rule also clarifies the obligations of a third party. When a permittee transfers data and information to a third party, there is a transfer of the obligation to provide access to MMS as well. Further, the recipient of the data and information is subject to the same penalty provisions as the original permittee—if a third party fails to provide access. These clarifications better define existing requirements and add no new requirements.

Other changes are not substantive or were made to put the regulation into plain English. Thus, a Takings Implication Assessment need not be prepared pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights.''

Unfunded Mandates Reform Act of 1995

DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on local, tribal, and State governments, or the private sector.

E.O. 12988

DOI has certified to OMB that the rule meets the applicable reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988, ''Civil Justice Reform.''

National Environmental Policy Act

DOI has also determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

30 CFR Part 251

Continental shelf, Freedom of information, Oil and gas exploration, Public lands— mineral resources, Reporting and recordkeeping requirements, Research.

Dated: December 16, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR parts 250 and 251 to read as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

Subpart N—Outer Continental Shelf (OCS) Civil Penalties

2. Section 250.209 paragraph (c) is revised as follows:

§ 250.209 What are my rights?

* * * * *

(c) * * * The Department of Interior's regulations implementing these authorities are found at 43 CFR part 12 subpart D.

Subpart O—Training

3. In subpart O, §§ 250.209 through 250.233 are redesignated as §§ 250.210 through 250.234, respectively.

4. 30 CFR part 251 is revised to read as follows:

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

Sec.

251.1 Definitions.
251.2 Purpose of this part.
251.3 Authority and applicability of this part.
251.4 Types of G&G activities that require permits or Notices.
251.5 Applying for permits or filing Notices.
251.6 Obligations and rights under a permit or a Notice.
251.7 Test drilling activities under a permit.
251.8 Inspection and reporting requirements for activities under a permit.
251.9 Temporarily stopping, canceling, or relinquishing activities approved under a permit.
251.10 Penalties and appeals.
251.11 Submission, inspection, and selection of geological data and information collected under a permit and processed by permittees or third parties.
251.12 Submission, inspection, and selection of geophysical data and information collected under a permit and processed by permittees or third parties.
251.13 Reimbursement for the cost of reproducing data and information and certain processing costs.
251.14 Protecting and disclosing data and information submitted to MMS under a permit.
251.15 Authority for information collection.

Authority: 43 U.S.C. 1331 *et seq.*

§ 251.1 Definitions.

Terms used in this part have the following meaning:

Act means the Outer Continental Shelf Lands Act (OCSLA), as amended (43 U.S.C. 1331 *et seq.*).

Analyzed geological information means data collected under a permit or a lease that have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

Archaeological interest means capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurements, controlled collection, analysis, interpretation, and explanation.

Archaeological resources means any material remains of human life or activities that are at least 50 years of age and of archaeological interest.

Coastal environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

Coastal Zone means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States and extends seaward to the outer limit of the U.S. territorial sea.

Coastal Zone Management Act means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).

Data means facts, statistics, measurements, or samples that have not been analyzed, processed, or interpreted.

Deep stratigraphic test means drilling that involves the penetration into the sea bottom of more than 500 feet (152 meters).

Director means the Director of the Minerals Management Service, U.S. Department of the Interior, or a subordinate authorized to act on the Director's behalf.

Exploration means the commercial search for oil, gas, and sulphur. Activities classified as exploration include, but are not limited to:

(1) Geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems are used to detect or imply the presence of oil, gas, or sulphur; and

(2) Any drilling, whether on or off a geological structure.

Geological and geophysical scientific research means any oil, gas, or sulphur related investigation conducted in the OCS for scientific and/or research purposes. Geological, geophysical, and geochemical data and information gathered and analyzed are made available to the public for inspection and reproduction at the earliest practicable time. The term does not include commercial geological or geophysical exploration or research.

Geological exploration means exploration that uses geological and geochemical techniques (e.g., coring and test drilling, well logging, and bottom sampling) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geological scientific research.

Geophysical exploration means exploration that utilizes geophysical techniques (e.g., gravity, magnetic, or seismic) to produce data and information on oil, gas, and sulphur resources in support of possible exploration and development activities. The term does not include geophysical scientific research.

Governor means the Governor of a State or the person or entity lawfully designated to exercise the powers

granted to a Governor pursuant to the Act.

Human environment means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

Hydrocarbon occurrence means the direct or indirect detection during drilling operations of any liquid or gaseous hydrocarbons by examination of well cuttings, cores, gas detector readings, formation fluid tests, wireline logs, or by any other means. The term does not include background gas, minor accumulations of gas, or heavy oil residues on cuttings and cores.

Information means geological and geophysical data that have been analyzed, processed, or interpreted.

Interpreted geological information means knowledge, often in the form of schematic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geological data and analyzed and processed geologic information.

Interpreted geophysical information means knowledge, often in the form of seismic cross sections, 3-dimensional representations, and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

Lease means an agreement which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, minerals or the area covered by that authorization, whichever is required by the context.

Lessee means a person who has entered into, or is the MMS approved assignee of, a lease with the United States to explore for, develop, and produce the leased minerals. The term ''lessee'' also includes an owner of operating rights.

Marine environment means the physical, atmospheric, and biological components, conditions, and factors that interactively determine the quality of the marine ecosystem in the coastal zone and in the OCS.

Material remains mean physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

Minerals mean oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from public lands as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

Notice means a written statement of intent to conduct geological or geophysical scientific research related to oil, gas, and sulphur in the OCS other than under a permit.

Oil, gas, and sulphur mean oil, gas, sulphur, geopressured-geothermal, and associated resources.

Outer Continental Shelf (OCS) means all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Permit means the contract or agreement, other than a lease, issued pursuant to this part, under which a person acquires the right to conduct on the OCS, in accordance with appropriate statutes, regulations, and stipulations:

(1) Geological exploration for mineral resources;

(2) Geophysical exploration for mineral resources;

(3) Geological scientific research; or

(4) Geophysical scientific research.

Permittee means the person authorized by a permit issued pursuant to this part to conduct activities on the OCS.

Person means a citizen or national of the United States; an alien lawfully admitted for permanent residence in the United States as defined in section 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; and associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal agencies.

Processed geological or geophysical information means data collected under a permit and later processed or reprocessed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements. Reprocessing is the additional processing other than ordinary processing used in the general course of evaluation. Reprocessing operations may include varying identified parameters for the detailed study of a specific problem area.

Secretary means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

Shallow test drilling means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

Significant archaeological resource means those archaeological resources that meet the criteria of significance for eligibility to the National Register of Historic Places as defined in 36 CFR 60.4.

Third Party means any person other than the permittee or a representative of the United States, including all persons who obtain data or information acquired under a permit from the permittee, or from another third party, by sale, trade, license agreement, or other means.

Violation means a failure to comply with any provision of the Act, or a provision of a regulation or order issued under the Act, or any provision of a lease, license, or permit issued under the Act.

You means a person who applies for and/or obtains a permit, or files a Notice to conduct geological or geophysical exploration or scientific research related to oil, gas, and sulphur in the OCS.

§ 251.2 Purpose of this part.

(a) To allow you to conduct G&G activities in the OCS related to oil, gas, and sulphur on unleased lands or on lands under lease to a third party.

(b) To ensure that you carry out G&G activities in a safe and environmentally sound manner so as to prevent harm or damage to, or waste of, any natural resources (including any mineral deposit in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment.

(c) To inform you and third parties of your legal and contractual obligations.

(d) To inform you and third parties of the U.S. Government's rights to access G&G data and information collected under permit in the OCS, reimbursement for submittal of data and information, and the proprietary terms of data and information submitted to, and retained by, MMS.

§ 251.3 Authority and applicability of this part.

MMS authorizes you to conduct exploration or scientific research activities under this part in accordance with the Act, the regulations in this part, orders of the Director/Regional Director, and other applicable statutes, regulations, and amendments.

(a) This part does not apply to G&G exploration conducted by or on behalf

of the lessee on a lease in the OCS. Refer to 30 CFR part 250 if you plan to conduct G&G activities related to oil, gas, or sulphur under terms of a lease.

(b) Federal agencies are exempt from the regulations in this part.

(c) G&G exploration or G&G scientific research related to minerals other than oil, gas, and sulphur is covered by regulations at 30 CFR part 280.

§ 251.4 Types of G&G activities that require permits or Notices.

(a) *Exploration.* You must have an MMS-approved permit to conduct G&G exploration, including deep stratigraphic tests, for oil, gas, or sulphur resources. If you conduct both geological and geophysical exploration, you must have a separate permit for each.

(b) *Scientific research.* You may only conduct G&G scientific research related to oil, gas, and sulphur in the OCS after you obtain an MMS-approved permit or file a Notice.

(1) *Permit.* You must obtain a permit if the research activities you propose to conduct involve:

(i) Using solid or liquid explosives;

(ii) Drilling a deep stratigraphic test; or

(iii) Developing data and information for proprietary use or sale.

(2) *Notice.* Any other G&G scientific research that you conduct related to oil, gas, and sulphur in the OCS requires you to file a Notice with the Regional Director at least 30 days before you begin. If circumstances preclude a 30-day Notice, you must provide oral notification and followup in writing. You must also inform MMS in writing when you conclude your work.

§ 251.5 Applying for permits or filing Notices.

(a) *Permits.* You must submit a signed original and three copies of the MMS permit application form (Form MMS–327). The form includes names of persons, type, location, purpose, and dates of activity, and environmental and other information.

(b) *Disapproval of permit application.* If MMS disapproves your application for a permit, the Regional Director will state the reasons for the denial and will advise you of the changes needed to obtain approval.

(c) *Notices.* You must sign and date a Notice and state:

(1) The name(s) of the person(s) who will conduct the proposed research;

(2) The name(s) of any other person(s) participating in the proposed research, including the sponsor;

(3) The type of research and a brief description of how you will conduct it;

(4) The location in the OCS, indicated on a map, plat, or chart, where you will conduct research;

(5) The proposed dates you project for your research activity to start and end;

(6) The name, registry number, registered owner, and port of registry of vessels used in the operation;

(7) The earliest practicable time you expect to make the data and information resulting from your research activity available to the public;

(8) Your plan of how you will make the data and information you collected available to the public;

(9) That you and others involved will not sell or withhold for exclusive use the data and information resulting from your research; and

(10) At your option, you may submit (as a substitute for the material required in paragraphs (c)(7), (c)(8), and (c)(9) of this section) the nonexclusive use agreement for scientific research attachment to Form 327.

(d) *Filing locations.* You must apply for a permit or file a Notice at one of the following locations:

(1) For the OCS off the State of Alaska—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Anchorage, Alaska 99508–4302.

(2) For the OCS off the Atlantic Coast and in the Gulf of Mexico—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

(3) For the OCS off the coast of the States of California, Oregon, Washington, or Hawaii—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, California 93010–6064.

§ 251.6 Obligations and rights under a permit or a Notice.

While conducting G&G exploration or scientific research activities under MMS permit or Notice:

(a) You must not:

(1) Interfere with or endanger operations under any lease, right-of-way, easement, right-of-use, Notice, or permit issued or maintained under the Act;

(2) Cause harm or damage to life (including fish and other aquatic life), property, or to the marine, coastal, or human environment;

(3) Cause harm or damage to any mineral resource (in areas leased or not leased);

(4) Cause pollution;

(5) Disturb archaeological resources;

(6) Create hazardous or unsafe conditions; or

(7) Unreasonably interfere with or cause harm to other uses of the area.

(b) You must immediately report to the Regional Director if you:

(1) Detect hydrocarbon occurrences;

(2) Detect environmental hazards which imminently threaten life and property; or

(3) Adversely affect the environment, aquatic life, archaeological resources, or other uses of the area where you are conducting exploration or scientific research activities.

(c) You must also consult and coordinate your G&G activities with other users of the area for navigation and safety purposes.

(d) Any persons conducting shallow test drilling or deep stratigraphic test drilling activities under a permit must use the best available and safest technologies that the Regional Director determines to be economically feasible.

(e) You may not claim any oil, gas, sulphur, or other minerals you discover while conducting operations under a permit or Notice.

§ 251.7 Test drilling activities under a permit.

(a) *Shallow test drilling.* Before you begin shallow test drilling under a permit, the Regional Director may require you to:

(1) Gather and submit seismic, bathymetric, sidescan sonar, magnetometer, or other geophysical data and information to determine shallow structural detail across and in the vicinity of the proposed test.

(2) Submit information for coastal zone consistency certification according to paragraphs (b)(3) and (b)(4) of this section, and for protecting archaeological resources according to paragraph (b)(5) of this section.

(3) Allow all interested parties the opportunity to participate in the shallow test according to paragraph (c) of this section, and meet bonding requirements according to paragraph (d) of this section.

(b) *Deep stratigraphic tests.* You must submit to the appropriate Regional Director, at the address given in § 251.5, a drilling plan, an environmental report, and an application for permit to drill (Form MMS–123) as follows:

(1) *Drilling plan.* The drilling plan must include:

(i) The proposed type, sequence, and timetable of drilling activities;

(ii) A description of your drilling rig, indicating the important features with special attention to safety, pollution prevention, oil-spill containment and cleanup plans, and onshore disposal procedures;

(iii) The location of each deep stratigraphic test you will conduct, including the location of the surface and projected bottomhole of the borehole;

(iv) The types of geological and geophysical survey instruments you will use before and during drilling;

(v) Seismic, bathymetric, sidescan sonar, magnetometer, or other geophysical data and information sufficient to evaluate seafloor characteristics, shallow geologic hazards, and structural detail across and in the vicinity of the proposed test to the total depth of the proposed test well; and

(vi) Other relevant data and information that the Regional Director requires.

(2) *Environmental report.* The environmental report must include all of the following material:

(i) A summary with data and information available at the time you submitted the related drilling plan. MMS will consider site-specific data and information developed since the most recent environmental impact statement or other environmental impact analysis in the immediate area. The summary must meet the following requirements:

(A) You must concentrate on the issues specific to the site(s) of drilling activity. However, you only need to summarize data and information discussed in any environmental reports, analyses, or impact statements prepared for the geographic area of the drilling activity.

(B) You must list referenced material. Include brief descriptions and a statement of where the material is available for inspection.

(C) You must refer only to data that are available to MMS.

(ii) Details about your project such as:

(A) A list and description of new or unusual technologies;

(B) The location of travel routes for supplies and personnel;

(C) The kinds and approximate levels of energy sources;

(D) The environmental monitoring systems; and

(E) Suitable maps and diagrams showing details of the proposed project layout.

(iii) A description of the existing environment. For this section, you must include the following information on the area:

(A) Geology;

(B) Physical oceanography;

(C) Other uses of the area;

(D) Flora and fauna;

(E) Existing environmental monitoring systems; and

(F) Other unusual or unique characteristics that may affect or be affected by the drilling activities.

(iv) A description of the probable impacts of the proposed action on the environment and the measures you propose for mitigating these impacts.

(v) A description of any unavoidable or irreversible adverse effects on the environment that could occur.

(vi) Other relevant data that the Regional Director requires.

(3) *Copies for coastal States.* You must submit copies of the drilling plan and environmental report to the Regional Director for transmittal to the Governor of each affected coastal State and the coastal zone management agency of each affected coastal State that has an approved program under the Coastal Zone Management Act. (The Regional Director will make the drilling plan and environmental report available to appropriate Federal agencies and the public according to the Department of the Interior's policies and procedures).

(4) *Certification of coastal zone management program consistency and State concurrence.* When required under an approved coastal zone management program of an affected State, your drilling plan must include a certification that the proposed activities described in the plan comply with enforceable policies of, and will be conducted in a manner consistent with such State's program. The Regional Director may not approve any of the activities described in the drilling plan unless the State concurs with the consistency certification or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of the Coastal Zone Management Act.

(5) *Protecting archaeological resources.* If the Regional Director believes that an archaeological resource may exist in the area that may be affected by drilling, the Regional Director will notify you of the need to prepare an archaeological report.

(i) If the evidence suggests that an archaeological resource may be present, you must:

(A) Locate the site of the drilling so as to not adversely affect the area where the archaeological resources may be, or

(B) Establish to the satisfaction of the Regional Director that an archaeological resource does not exist or will not be adversely affected by drilling. This must be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the Regional Director. A report on the investigation must be submitted to the Regional Director for review.

(ii) If the Regional Director determines that an archaeological resource is likely to be present in the area that may be affected by drilling, and may be adversely affected by drilling, the Regional Director will notify you immediately. You must take no action that may adversely affect the archaeological resource unless further investigations determine that the resource is not archaeologically significant.

(iii) If you discover any archaeological resource while drilling, you must immediately halt drilling and report the discovery to the Regional Director. If investigations determine that the resource is significant, the Regional Director will inform you how to protect it.

(6) *Application for permit to drill (APD).* Before commencing deep stratigraphic test drilling activities under an approved drilling plan, you must submit an APD (Form MMS–123) and receive approval. You must comply with all regulations relating to drilling operations in 30 CFR part 250.

(7) *Revising an approved drilling plan.* Before you revise an approved drilling plan, you must obtain the Regional Director's approval.

(8) *After drilling.* When you complete the test activities, you must permanently plug and abandon the boreholes of all deep stratigraphic tests in compliance with 30 CFR part 250. If the tract on which you conducted a deep stratigraphic test is leased to another party for exploration and development, and if the lessee has not disturbed the borehole, MMS will hold you and not the lessee responsible for problems associated with the test hole.

(9) *Deadline for completing a deep stratigraphic test.* If your deep stratigraphic test well is within 50 geographic miles of a tract that MMS has identified for a future lease sale, as listed on the currently approved OCS leasing schedule, you must complete all drilling activities and submit the data and information to the Regional Director at least 60 days before the first day of the month in which MMS schedules the lease sale. However, the Regional Director may extend your permit duration to allow you to complete drilling activities and submit data and information if the extension is in the national interest.

(c) *Group participation in test drilling.* MMS encourages group participation for deep stratigraphic tests.

(1) *Purpose of group participation.* The purpose is to minimize duplicative

G&G activities involving drilling into the seabed of the OCS.

(2) *Providing opportunity for participation in a deep stratigraphic test.* When you propose to drill a deep stratigraphic test, you must give all interested persons an opportunity to participate in the test drilling through a signed agreement on a cost-sharing basis. You may include a penalty for late participation of not more than 100 percent of the cost to each original participant in addition to the original share cost.

(i) The participants must assess and distribute late participation penalties in accordance with the terms of the agreement.

(ii) For a significant hydrocarbon occurrence that the Regional Director announces to the public, the penalty for subsequent late participants may be raised to not more than 300 percent of the cost of each original participant in addition to the original share cost.

(3) *Providing opportunity for participation in a shallow test drilling project.* When you apply to conduct shallow test drilling activities, you must, if ordered by the Regional Director or required by the permit, give all interested persons an opportunity to participate in the test activity on a cost-sharing basis. You may include a penalty provision for late participation of not more than 50 percent of the cost to each original participant in addition to the original share cost.

(4) *Procedures for group participation in drilling activities.* You must:

(i) Publish a summary statement that describes the approved activity in a relevant trade publication;

(ii) Forward a copy of the published statement to the Regional Director;

(iii) Allow at least 30 days from the summary statement publication date for other persons to join as original participants;

(iv) Compute the estimated cost by dividing the estimated total cost of the program by the number of original participants; and

(v) Furnish the Regional Director with a complete list of all participants before starting operations, or at the end of the advertising period if you begin operations before the advertising period is over. The names of any subsequent or late participants must also be furnished to the Regional Director.

(5) *Changes to the original application for test drilling.* If you propose changes to the original application and the Regional Director determines that the changes are significant, the Regional Director will require you to publish the changes for an additional 30 days to give other persons a chance to join as original participants.

(d) *Bonding requirements.* You must submit a bond under this part before you may start a deep stratigraphic test.

(1) Before MMS issues a permit authorizing the drilling of a deep stratigraphic test, you must either:

(i) Furnish to MMS a bond of not less than $200,000 that guarantees compliance with all the terms and conditions of the permit; or

(ii) Maintain a $1 million bond that guarantees compliance with all the terms and conditions of the permit you hold for the OCS area where you propose to drill.

(2) You must provide additional security to MMS if the Regional Director determines that it is necessary for the permit or area.

(3) The Regional Director may require you to provide a bond, in an amount the Regional Director prescribes, before authorizing you to drill a shallow test well.

(4) Your bond must be on a form approved by the Associate Director for Offshore Minerals Management.

§ 251.8 Inspection and reporting requirements for activities under a permit.

(a) *Inspection of permit activities.* You must allow MMS representatives to inspect your exploration or scientific research activities under a permit. They will determine whether operations are adversely affecting the environment, aquatic life, archaeological resources, or other uses of the area. MMS will reimburse you for food, quarters, and transportation that you provide for MMS representatives if you send in your reimbursement request to the Region that issued the permit within 90 days of the inspection.

(b) *Approval for modifications.* Before you begin modified operations, you must submit a written request describing the modifications and receive the Regional Director's oral or written approval. If circumstances preclude a written request, you must make an oral request and follow up in writing.

(c) *Reports.* (1) You must submit status reports on a schedule specified in the permit and include a daily log of operations.

(2) You must submit a final report of exploration or scientific research activities under a permit within 30 days after the completion of acquisition activities under the permit. You may combine the final report with the last status report and must include each of the following:

(i) A description of the work performed.

(ii) Charts, maps, plats, and digital navigational data in a format specified by the Regional Director, showing the areas and blocks in which any exploration or permitted scientific research activities were conducted. Identify the lines of geophysical traverses and their locations including a reference sufficient to identify the data produced during each activity.

(iii) The dates on which you conducted the actual exploration or scientific research activities.

(iv) A summary of any:

(A) Hydrocarbon or sulphur occurrences encountered;

(B) Environmental hazards; and

(C) Adverse effects of the exploration or scientific research activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted.

(v) Other descriptions of the activities conducted as specified by the Regional Director.

§ 251.9 Temporarily stopping, canceling, or relinquishing activities approved under a permit.

(a) MMS may temporarily stop exploration or scientific research activities under a permit when the Regional Director determines that:

(1) Activities pose a threat of serious, irreparable, or immediate harm. This includes damage to life (including fish and other aquatic life), property, any mineral deposit (in areas leased or not leased), to the marine, coastal, or human environment, or to an archaeological resource;

(2) You failed to comply with any applicable law, regulation, order, or provision of the permit. This would include MMS' required submission of reports, well records or logs, and G&G data and information within the time specified; or

(3) Stopping the activities is in the interest of national security or defense.

(b) *Procedures to temporarily stop activities.* (1) The Regional Director will advise you either orally or in writing. MMS will confirm an oral notification in writing and deliver all written notifications by courier or certified or registered mail. You must halt all activities under a permit as soon as you receive an oral or written notification.

(2) The Regional Director will advise you when you may start your permit activities again.

(c) *Procedure to cancel or relinquish a permit.* The Regional Director may cancel, or a permittee may relinquish, a permit at any time.

(1) If MMS cancels your permit, the Regional Director will advise you by certified or registered mail 30 days before the cancellation date and will state the reason.

(2) You may relinquish the permit by advising the Regional Director by certified or registered mail 30 days in advance.

(3) After MMS cancels your permit or you relinquish it, you are still responsible for proper abandonment of any drill sites in accordance with the requirements of § 251.7(b)(8). You must also comply with all other obligations specified in this part or in the permit.

§ 251.10 Penalties and appeals.

(a) *Penalties for noncompliance under a permit issued by MMS.* You are subject to the penalty provisions of: (1) Section 24 of the Act (43 U.S.C. 1350); and (2) The procedures contained in 30 CFR part 250, subpart N, for noncompliance with: (i) Any provision of the Act; (ii) Any provision of a G&G or drilling permit; or (iii) Any regulation or order issued under the Act.

(b) *Penalties under other laws and regulations.* The penalties prescribed in this section are in addition to any other penalty imposed by any other law or regulation.

(c) *Procedures to appeal orders or decisions MMS issues.* You may appeal any orders or decisions that MMS issues under the regulations in this part by referring to 30 CFR part 290. When you file an appeal with the Director, you must continue to follow all requirements for compliance with an order or decision other than payment of a civil penalty.

§ 251.11 Submission, inspection, and selection of geological data and information collected under a permit and processed by permittees or third parties.

(a) *Availability of geological data and information collected under a permit.* (1) You must notify the Regional Director, in writing, when you complete the initial analysis, processing, or interpretation of any geological data and information. Initial analysis and processing are the stages of analysis or processing where the data and information first become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(2) The Regional Director may ask if you have further analyzed, processed, or interpreted any geological data and information. When so asked, you must respond to MMS in writing within 30 days.

(b) *Submission, inspection, and selection of geological data and information.* The Regional Director may request the permittee or third party to submit the analyzed, processed, and interpreted geologic data and information for inspection and/or permanent retention by MMS. The data and information must be submitted within 30 days after such request.

(c) *Requirements for submission of geological data and information collected under a permit.* Unless the Regional Director specifies otherwise, geological data and information must include:

(1) An accurate and complete record of all geological (including geochemical) data and information describing each operation of analysis, processing, and interpretation;

(2) Paleontological reports identifying microscopic fossils by depth, including the reference datum to which paleontological sample depths are related and, if the Regional Director requests, washed samples that you maintain for paleontological determinations;

(3) Copies of well logs or charts in a digital format, if available;

(4) Results and data obtained from formation fluid tests;

(5) Analyses of core or bottom samples and/or a representative cut or split of the core or bottom sample;

(6) Detailed descriptions of any hydrocarbons or hazardous conditions encountered during operations, including near losses of well control, abnormal geopressures, and losses of circulation; and

(7) Other geological data and information that the Regional Director may specify.

(d) *Obligations when geological data and information collected under permit are obtained by a third party.* A third party may obtain geological data and information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(1) The third party recipient of the data and information assumes the obligations under this section, except for the notification provisions of paragraph (a)(1), and is subject to the penalty provisions of 30 CFR part 250, subpart N; and

(2) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(3) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing and within 30 days, of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(4) For license agreements a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

§ 251.12 Submission, inspection, and selection of geophysical data and information collected under a permit and processed by permittees or third parties.

(a) *Availability of geophysical data and information collected under a permit.* (1) You must notify the Regional Director, in writing, when you complete the initial processing and interpretation of any geophysical data and information. Initial processing is the stage of processing where the data and information become available for in-house interpretation by the permittee, or become available commercially to third parties via sale, trade, license agreement, or other means.

(2) The Regional Director may ask if you have further processed or interpreted any geophysical data and information. When so asked, you must respond to MMS in writing within 30 days.

(b) *Submission, inspection and selection of geophysical data and information collected under a permit.* The Regional Director may request that the permittee or third party submit geophysical data and information before making a final selection for retention. MMS representatives may inspect and select the data and information on your premises, or the Regional Director can request delivery of the data and information to the appropriate MMS regional office for review.

(1) You must submit the geophysical data and information within 30 days of receiving the request, unless the Regional Director extends the delivery time.

(2) At any time before final selection, the Regional Director may return any or all geophysical data and information following review. You will be notified in writing of all or portions of those data the Regional Director decides to retain.

(c) *Requirements for submission of geophysical data and information collected under a permit.* Unless the Regional Director specifies otherwise, you must include:

(1) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps;

(2) All seismic data collected under a permit presented in a format and of a quality suitable for processing;

(3) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a quality format suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(4) Other geophysical data, processed geophysical information, and interpreted geophysical information including, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

(d) *Obligations when geophysical data and information collected under a permit are obtained by a third party.* A third party may obtain geophysical data, processed geophysical information, or interpreted geophysical information from a permittee, or from another third party, by sale, trade, license agreement, or other means. If this happens:

(1) The third party recipient of the data and information assumes the obligations under this section, except for the notification provisions of paragraph (a)(1), and is subject to the penalty provisions of 30 CFR part 250, subpart N; and

(2) A permittee or third party that sells, trades, licenses, or otherwise provides data and information to a third party must advise the recipient, in writing, that accepting these obligations is a condition precedent of the sale, trade, license, or other agreement; and

(3) Except for license agreements, a permittee or third party that sells, trades, or otherwise provides data and information to a third party must advise the Regional Director, in writing and within 30 days, of the sale, trade, or other agreement, including the identity of the recipient of the data and information; or

(4) For license agreements, a permittee or third party that licenses data and information to a third party must, within 30 days of a request by the Regional Director, advise the Regional Director, in writing, of the license agreement, including the identity of the recipient of the data and information.

§ 251.13 Reimbursement for the costs of reproducing data and information and certain processing costs.

(a) MMS will reimburse you or a third party for reasonable costs of reproducing data and information that the Regional Director requests if:

(1) You deliver G&G data and information to MMS for the Regional Director to inspect or select and retain (according to §§ 251.11 or 251.12);

(2) MMS receives your request for reimbursement and the Regional Director determines that the requested reimbursement is proper; and

(3) The cost is at your lowest rate (or a third party's) or at the lowest commercial rate established in the area, whichever is less.

(b) MMS will reimburse you or the third party for the reasonable costs of processing geophysical information (which does not include cost of data acquisition):

(1) If, at the request of the Regional Director, you processed the geophysical data or information in a form or manner other than that used in the normal conduct of business; or

(2) If you collected the information under a permit that MMS issued to you before October 1, 1985, and the Regional Director requests and retains the information.

(c) When you request reimbursement, you must identify reproduction and processing costs separately from acquisition costs.

(d) MMS will not reimburse you or a third party for data acquisition costs or for the costs of analyzing or processing geological information or interpreting geological or geophysical information.

§ 251.14 Protecting and disclosing data and information submitted to MMS under a permit.

(a) *Disclosure of data and information to the public by MMS.* (1) In making data and information available to the public, the Regional Director will follow the applicable requirements of:

(i) The Freedom of Information Act (5 U.S.C. 552);

(ii) The implementing regulations at 43 CFR part 2;

(iii) The Act; and

(iv) The regulations at 30 CFR parts 250 and 252.

(2) Except as specified in this section or in 30 CFR parts 250 and 252, if the Regional Director determines any data or information is exempt from public disclosure under paragraph (a) of this section, MMS will not provide the data and information to any State or to the executive of any local government or to the public, unless you and all third parties agree to the disclosure.

(3) MMS will keep confidential the identity of third party recipients of data and information collected under a permit. MMS will not release the identity unless you and the third parties agree to the disclosure.

(4) When you detect any significant hydrocarbon occurrences or environmental hazards on unleased lands during drilling operations, the Regional Director will immediately issue a public announcement. The announcement must further the national interest, but without unduly damaging your competitive position.

(b) *Timetable for release of G&G data and information that MMS acquires.* MMS will release data and information that you or a third party submits and MMS retains, in accordance with paragraphs (b)(1) and (b)(2) of this section.

(1) If the data and information are not related to a deep stratigraphic test, MMS will release them to the public in accordance with the following table:

If you or a third party submit and MMS retains	The Regional Director will disclose them to the public
Geological data and information.	10 years after issuing the permit.
Geophysical data	50 years after you or a third party submit the data.
Geophysical information.	25 years after you or a third party submit the information.

(2) If the data and information are related to a deep stratigraphic test, MMS will release them to the public at the earlier of the following times:

(i) Twenty-five years after you complete the test; or

(ii) If a lease sale is held after you complete a test well, 60 calendar days after MMS issues the first lease, any portion of which is located within 50 geographic miles (92.7 kilometers) of the test.

(c) *Procedure that MMS follows to disclose acquired data and information to a contractor for reproduction, processing, and interpretation.*

(1) When practical, the Regional Director will advise the person who submitted data and information under §§ 251.11 or 251.12 of the intent to disclose the data or information to an independent contractor or agent.

(2) The person so notified will have at least 5 working days to comment on the action.

(3) When the Regional Director advises the person who submitted the data and information, all other owners of the data or information will be considered to have been so notified.

(4) Before disclosure, the contractor or agent must sign a written commitment not to sell, trade, license, or disclose data or information to anyone without the Regional Director's consent.

(d) *Sharing data and information with coastal States.* (1) When MMS solicits nominations for leasing lands located within 3 geographic miles (5.6

kilometers) of the seaward boundary of any coastal State, the Regional Director, in accordance with 30 CFR 252.7 (a)(4) and (b) and subsections 8(g) and 26(e) of the Act (43 U.S.C. 1337(g) and 1352(e)), will provide the Governor with:

(i) All information on the geographical, geological, and ecological characteristics of the areas and regions MMS proposes to offer for lease;

(ii) An estimate of the oil and gas reserves in the areas proposed for leasing; and

(iii) An identification of any field, geological structure, or trap on the OCS within 3 geographic miles (5.6 kilometers) of the seaward boundary of the State.

(2) After receiving nominations for leasing an area of the OCS within 3 geographic miles of the seaward boundary of any coastal State, MMS will carry out a tentative area identification according to 30 CFR part 256, subparts D and E. At that time, the Regional Director will consult with the Governor to determine whether any tracts further considered for leasing may contain any oil or gas reservoirs that underlie both the OCS and lands subject to the jurisdiction of the State.

(3) Before a sale, if a Governor requests, the Regional Director, in accordance with 30 CFR 252.7(a)(4) and (b) and sections 8(g) and 26(e) of the Act (43 U.S.C. 1337(g) and 1352(e)), will share with the Governor information that identifies potential and/or proven common hydrocarbon bearing areas within 3 geographic miles of the seaward boundary of that State.

(4) Information received and knowledge gained by a State official under paragraph (d) of this section is subject to applicable confidentiality requirements of:

(i) The Act; and

(ii) The regulations at 30 CFR parts 250, 251, and 252.

§ 251.15 Authority for information collection.

(a) The Office of Management and Budget has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.* and assigned OMB control number 1010–0048. The title of this information collection is ''30 CFR Part 251, Geological and Geophysical (G&G) Explorations of the OCS.''

(b) We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(c) We use the information collected under this part to:

(1) Evaluate permit applications and monitor scientific research activities for environmental and safety reasons.

(2) Determine that explorations do not harm resources, result in pollution, create hazardous or unsafe conditions, or interfere with other users in the area.

(3) Approve reimbursement of certain expenses.

(4) Monitor the progress and activities carried out under an OCS G&G permit.

(5) Inspect and select G&G data and information collected under an OCS G&G permit.

(d) Respondents are Federal OCS permittees and Notice filers. Responses are mandatory or are required to obtain or retain a benefit. We will protect information considered proprietary under applicable law and under regulations at § 251.14 and part 250 of this chapter.

(e) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, 1849 C Street, N.W., Washington, D.C. 20240; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior (1010–0048), 725 17th Street, N.W., Washington, D.C. 20503.

[FR Doc. 97–33530 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF DEFENSE

Defense Special Weapons Agency

32 CFR Part 318

[DSWA Instruction 5400.11B]

Defense Special Weapons Agency Privacy Program

AGENCY: Defense Special Weapons Agency, DOD.

ACTION: Final rule.

SUMMARY: The Defense Special Weapons Agency (DSWA) is adding two sections to its procedural rule for the DSWA Privacy Program. The two sections are entitled Disclosure of record to persons other than the individual to whom it pertains and Fees. The addition of these two sections helps an individual to better understand the DSWA Privacy Program.

EFFECTIVE DATE: December 3, 1997.

ADDRESSES: General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandy Barker at (703) 325–7681.

SUPPLEMENTARY INFORMATION:

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that the Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

The Defense Special Weapons Agency is adopting the changes previously published as a proposed rule on October 3, 1997, at 62 FR 51821. No comments were received, therefore, the Defense Special Weapons Agency is adopting the rule as previously published.

List of Subjects in 32 CFR Part 318

Privacy.

Accordingly, the Defense Special Weapons Agency amends 32 CFR part 318 as follows:

PART 318–DEFENSE SPECIAL WEAPONS AGENCY PRIVACY PROGRAM-[AMENDED]

1. The authority citation for 32 CFR part 318 continues to read as follows:

AUTHORITY: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 318.9 is redesignated as 318.11.

3. Sections 318.9 and 318.10 are added as follows:

§ 318.9 Disclosure of record to persons other than the individual to whom it pertains.

(a) *General.* No record contained in a system of records maintained by DSWA shall be disclosed by any means to any person or agency within or outside the Department of Defense without the request or consent of the subject of the record, except as described in 32 CFR part 310.41, Appendix C to part 310, and/or a Defense Special Weapons Agency system of records notice.

(b) *Accounting of disclosures.* Except for disclosures made to members of the DoD in connection with their official duties, and disclosures required by the Freedom of Information Act, an accounting will be kept of all disclosures of records maintained in DSWA system of records.

(1) Accounting entries will normally be kept on a DSWA form, which will be maintained in the record file jacket, or in a document that is part of the record.

(2) Accounting entries will record the date, nature and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(3) Accounting records will be maintained for at least 5 years after the last disclosure, of for the life of the record, whichever is longer.

(4) Subjects of DSWA records will be given access to associated accounting records upon request, except for those disclosures made to law enforcement activities when the law enforcement activity has requested that the disclosure not be made, and/or as exempted under section 318.11 of this part.

§ 318.10 Fees.

Individuals may request copies for retention of any documents to which they are granted access in DSWA records pertaining to them. Requesters will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with DoD 5400.11–R.

Dated: December 18, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–33542 Filed 12-23-97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 194

[Docket No. PS–130; Amdt. 194–1]

RIN 2137–AD12

Pipeline Safety: Change in Response Plan Review Cycle

AGENCY: Research and Special Program Administration (RSPA), DOT.

ACTION: Direct final rule.

SUMMARY: This direct final rule changes the reporting cycle for facility response plan submissions to 5 years for operators who are required to submit facility response plans to RSPA. Pipeline operators were previously required to submit facility response plans every 3 years.

OPS is undertaking this change to improve safety by ensuring consistency between OPS requirements and those of the other federal agencies under the Oil Pollution Act of 1990, and encouraging the use of integrated plans, while easing the burden on the regulated community. The comments to the docket have fully supported this change.

EFFECTIVE DATES: This direct final rule takes effect February 23, 1998. If RSPA does not receive adverse comment or notice of intent to file an adverse comment by January 23, 1998, the rule will become effective on the date specified. RSPA will issue a subsequent notice in the **Federal Register** by February 9, 1998 after the close of the comment period to confirm that fact and reiterate the effective date. If an adverse comment or a notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and RSPA would withdraw direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Identify the docket number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in room 8419 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Jim Taylor, (202) 366–8860, or by e-mail (jim.taylor@rspa.dot.gov), regarding the subject matter of this Notice; or the RSPA Dockets Unit, (202) 366–5046, for copies of this final rule or other material in the docket. General information about OPS programs can be obtained by accessing OPS'' Internet home page at ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

In recent years, several catastrophic oil spills have damaged the marine environment of the United States. These spills have resulted in extensive environmental impact, including the loss of fish and wildlife. In response to these catastrophic spills, Congress passed the Oil Pollution Act of 1990, 33 U.S.C. 2701–2761 (OPA 90). OPA 90 amended section 1321(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1251–1387), and established a new national planning and response system, including a requirement for the development of facility response plans.

The FWPCA requires the President to issue regulations that require the operator of a tank vessel, an onshore facility, and certain offshore facilities, to prepare and submit to the President, a plan for responding, to the maximum extent practicable, to a worst case oil discharge and to a substantial threat of such a discharge. 33 U.S.C. 1321(j)(5). The FWPCA also requires the President to review and approve facility response plans and periodic reviews of each plan. 33 U.S.C. 1321(j)(5)(D).

To be consistent with OPA 90 and FWPCA plan submission requirements of the Environmental Protection Agency and U.S. Coast Guard, RSPA is revising 49 CFR § 194.121(b) to require a response plan to be resubmitted every 5 years for review and approval. For significant and substantial harm facilities, the plan shall be resubmitted 5 years after the latest approval date by RSPA. For substantial harm facilities, operators must resubmit the plan to RSPA 5 years after the date of initial submission and every 5 years thereafter.

In the event there are no changes in the plan, the operator must submit a written certification to RSPA stating that there are no changes to the plan previously submitted to RSPA. Upon receipt of the certification, RSPA will review the existing plan and, for significant and substantial harm facilities, RSPA will re-approve the plan. Substantial harm facility plans will be reviewed only. Although the current 3-year cycle for all plans is ending, when this rule becomes effective there will be no requirement to

resubmit existing response plans until 2 years from now.

Regulatory History

RSPA published an interim final rule (IFR) on January 5, 1993 (58 FR 244). This interim final rule implemented provisions of OPA 90. With limited exceptions, this direct final rule applies to all onshore transportation-related oil pipelines whether or not such pipelines are exempt from existing Federal pipeline safety regulations or statutes. RSPA conducted a public meeting in New Orleans, Louisiana on January 27, 1997, to solicit feedback from interested parties on implementation of the regulation and revisions to the IFR. A copy of the transcript of the public meeting is available in the docket. This direct final rule modifies the interim final rule, 49 CFR Part 194 (58 FR 244, January 5, 1993). RSPA intends to issue a final rule for 49 CFR Part 194 at a later date.

Rulemaking Notices and Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This direct final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not reviewed by the Office of Management and Budget (OMB). The direct final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Order 12612

The direct final rule has been analyzed with the principles and criteria in Executive Order 12612 (''Federalism'') (52 FR 41685), and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

Based on the facts available, I certify that this direct final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

There are no new information collection requirements in this direct final rule. In fact, this rulemaking eases the paperwork burden on pipeline operators by reducing the reporting frequency from three to five years.

Unfunded Mandates Reform Act of 1995

This direct final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal goverments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the direct final rule.

List of Subjects in 49 CFR Part 194

Oil pollution, Facility Response Plan, Pipeline safety.

In consideration of the foregoing, RSPA amends part 194 of title 49 of the Code of Federal Regulations as follows:

1. The authority citation for Part 194 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.53.

2. Section 194.121(a) is revised to read as follows:

§ 194.121 Response plan review and update procedures.

(a) Each operator shall review its response plan at least every 5 years from the date of submission and modify the plan to address new or different operating conditions or information included in the plan.

* * * * *

Issued in Washington, DC on December 16, 1997.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 97–33289 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket No. PS–102; Amendment 199–16]

RIN 2137–AC67

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Direct final rule.

SUMMARY: This direct final rule amends the ''Scope and Compliance'' section of the Drug Testing Rules to revise the applicability requirement with respect to any operator whose employees are located outside the territory of the United States.

DATES: This direct final rule is effective on April 15, 1998. If RSPA does not receive any adverse comment or notice of intent to file an adverse comment by February 23, 1998, the rule will become effective on the date specified. RSPA will issue a subsequent notice in the **Federal Register** by March 16, 1998 to confirm that fact and reiterate the effective date. If an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact, and RSPA may withdraw the direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

ADDRESSES: Send comments in duplicate to the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. Please identify the docket and amendment number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8421 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Catrina Pavlik, Drug/Alcohol Program Analyst, Research and Special Programs Administration, Office of Pipeline Safety, Room 2335, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–6199, Fax: (202) 366–4566, e-mail: catrina.pavlik@RSPA.dot.gov. Information is also available on the Office of Pipeline Safety's internet home page at OPS.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1988, RSPA, along with other operating administrations of the Department of Transportation, adopted regulations requiring pre-employment, post-accident, reasonable cause, and random drug testing (53 FR 47084).

The drug testing required by these rules applies to some persons located outside of the United States. However, the rule provided that drug testing would not apply to any person for whom compliance would violate the domestic laws or policies of another country. The rule provided that 49 CFR part 199 would not be effective until January 1, 1990, with respect to any person for whom a foreign government contends that application of the rule raises questions of compatibility with the country's laws or policies.

At the same time, RSPA stated that the Department of Transportation and other elements of the U.S. Government would enter into discussions with foreign governments to attempt to resolve any conflict between our rules and foreign government laws or policies. If as a result of those discussions an amendment to the rules

was necessary, we committed to issue an amendment by December 1, 1989.

On April 13, 1989, RSPA published an amendment to part 199 (Amdt. No. 199–1; 54 FR 14922) which provided that the rules would not be effective until January 1, 1991, with respect to persons with a foreign law conflict. Similar amendments were published on December 27, 1989, extending the effective date to January 2, 1992 (Amdt. No. 199–3; 54 FR 53290), April 24, 1991, extending the date to January 2, 1993 (Amdt. No. 199–5; 56 FR 18986), and July 14, 1992, extending the date to January 2, 1995 (Amdt. No. 199–7; 57 FR 31279). These amendments provided additional time for government-to-government discussions to reach a permanent resolution of this issue.

RSPA has revisited the issue of requiring foreign operators to drug test persons located outside of the United States who are performing covered functions. Due to the complexity of the legal issues, RSPA has determined that it would be a better use of agency resources to concentrate its enforcement efforts on operators whose employees are located within U.S. territory including the outer continental shelf. There are few pipeline employees who would be excepted by this rule. Because of the legal issues, these employees have never been subject to drug or alcohol testing by RSPA.

II. Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This amendment will alleviate the burden for pipeline operators whose employees are located outside the territory of the United States to comply with the requirement to subject those employees who perform a covered function (such as, SCADA system operators) to the drug testing regulations. Currently, there are approximately 50 covered employees performing a covered function who are located in Canada. Most pipelines that run from Canada to the United States have either a metering facility or valves located at the border. This delineates a separation of entities at the border. At that point, a U.S. operator becomes responsible for the pipeline (i.e., operations, maintenance, and emergency-response functions). At this time, there are no SCADA systems located in Mexico. There are pipelines that run from Mexico to the U.S., but the SCADA control system is located in the U.S. Because of the minimal number of operators with employees who perform covered functions outside of the United States, RSPA concludes that it would not be cost effective for those pipeline operators to comply with this regulation. In addition, RSPA does not have sufficient resources to inspect these operators to ensure that they are complying with part 199. Therefore, this part of the regulation is being revised to exclude pipeline operators with employees located outside United States' territory, including the outer continental shelf.

This amendment is non-major under Executive Order 12866, and is not considered significant under DOT Regulatory Policy and Procedures (44 FR 22034; February 26, 1979). There is no additional cost to the pipeline operators to delete this portion of the rule. This change does not warrant the preparation of a Regulatory Evaluation.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''), and RSPA has determined that preparation of a federalism assessement is not warranted.

Regulatory Flexibility Act

Based on the above facts, I certify under Section 606 of the Regulatory Flexibility Act that this amendment does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not impose any new information collection requirements.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

List of Subjects in 49 CFR Part 199

Alcohol testing, Drug testing, Pipeline safety.

In consideration of the foregoing, RSPA is amending 49 CFR as follows:

PART 199—DRUG AND ALCOHOL TESTING

1. The authority citation for part 199 is amended to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

§ 199.1 [Amended]

2. Paragraph (d) of § 199.1 is revised to read as follows:

§ 199.1 Scope and compliance.

* * * * *

(d) This part applies to pipeline operators, only with respect to pipeline employees located within the territory of the United States, including those employees located within the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

Issued in Washington, D.C. on December 10, 1997.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 97–33119 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 62, No. 247
Wednesday, December 24, 1997

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 842, 870, and 890

RIN 3206–AI12

Retirement and Insurance—Exemption From Continuity of Coverage Requirements for Certain Decennial Census Employees With Dual Appointments

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations to provide an exemption from continuity of coverage requirements for Federal retirement, health insurance, and life insurance benefits, for certain Federal employees who accept a second appointment to perform intermittent decennial census duties. The purpose of this exemption is to facilitate hiring Federal employees for the decennial census by eliminating administrative complexities that would otherwise result under current regulations. Employees will retain the retirement and insurance benefits to which they are entitled under their primary Federal jobs, while earning additional wages in their second jobs with the Census Bureau.

DATES: Comments must be received on or before January 23, 1998.

ADDRESSES: Send comments to Mary Ellen Wilson, Retirement Policy Division, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington DC. Comments may also be submitted by electronic mail to *combox@opm.gov*.

FOR FURTHER INFORMATION CONTACT: For Parts 831 and 842: Robert Girouard, (202) 606–0299; and for Parts 870 and 890: Karen Leibach, (202) 606–0004.

SUPPLEMENTARY INFORMATION:

An individual who is hired into a Federal position from outside Government under a temporary, intermittent appointment is excluded from retirement and insurance coverage under the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), the Federal Employees' Group Life Insurance Program (FEGLI), and the Federal Employees Health Benefits Program (FEHB). However, by regulation, Federal employees in positions covered by retirement, health insurance, and life insurance, who move to Federal positions not covered by these benefits, can generally continue their benefit coverage if they have no break in Federal service. This continuity of coverage rule also applies when a Federal employee accepts a second, concurrent Federal job that would otherwise be excluded from coverage.

The Bureau of the Census, U.S. Department of Commerce (''Census Bureau'') has asked OPM for an exemption from this continuity of coverage requirement, when a Federal employee is hired by the Census Bureau for a second job performing intermittent decennial census duties.

The Census Bureau anticipates evaluating 2.6 million applicants and hiring 260 thousand workers for peak operations of the year 2000 decennial census. The Census Bureau is placing a special emphasis on hiring current Federal employees for decennial census operations, because of the scale of hiring that must be carried out by the Census Bureau beginning in 1998; the special skills of Federal employees; and the low unemployment rate, which reduces the supply of labor readily available for temporary hiring.

It is anticipated that 95 to 98 percent of Federal employees hired for second jobs by the Census Bureau will be hired as intermittent, excepted-service appointees, under temporary appointments not to exceed one year. These appointments will generally be made under section 23(b) of title 13, United States Code, which allows Federal employees to be compensated for second positions conducting census field work, without regard to the restrictions on dual compensation found in section 5533 of title 5, United States Code.

Continuity of coverage rules for retirement and insurance make it difficult for the Census Bureau to hire Federal employees for second appointments. While each Federal employee retains benefit coverage under his or her primary position with little or no additional benefits accruing from the intermittent Census employment, the Census Bureau would be required to coordinate closely with each employee's agency to determine the amount of additional retirement deductions and insurance premiums that would have to be withheld as a result of continuity of coverage. The administrative complexities resulting from week by week coordination with the employee's primary agency would be highly susceptible to error and would make large-scale hiring from the pool of Federal employees administratively prohibitive. Placing Federal employees hired to perform short term decennial census service on the same benefit footing as persons hired from outside the Government will significantly reduce the coordination burden, and assist the Census Bureau in meeting its unique staffing requirements.

For these reasons, the Office of Personnel Management is proposing to amend the continuity of coverage rules to exempt Federal employees hired by the Census Bureau under temporary, intermittent appointments to perform decennial census duties. OPM's authority to make this exemption is in sections 8347(g), 8402(c)(1), 8716(b), and 8913(b) of title 5, United States Code.

In order for these regulations to meet their stated purpose of providing timely relief, they must take effect by the Spring of 1998, when the Census Bureau will begin hiring Federal employees for decennial census rehearsal activities. Therefore, the Office of Personnel Management is issuing the proposed regulations with a 30-day comment period.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement and insurance benefits of retired Government employees and their survivors.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM proposed to amend Parts 831, 842, 870, and 890 of Title 5 of the Code of Federal Regulations as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of title XI of Pub. L. 105–33, 111 Stat. 251; § 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. p. 317; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of the Pub. L. 99–251, 100 Stat. 23; subpart S also issued under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart B—Coverage

2. In § 831.201, paragraph (b)(1) is revised to read as follows:

§ 831.201 Exclusions from retirement coverage.

* * * * *

(b) * * *

(1) Employment in an excluded category follows employment subject to subchapter III of chapter 83 of title 5, United States Code, without a break in service or after a separation from service of 3 days or less, except in the case of:

(i) An alien employee whose duty station is located in a foreign country; or

(ii) An employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

* * * * *

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

3. The authority citation for section 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of the National Capital Revitalization and Self-Government Improvement Act of 1997, title XI of Pub. L. 105–33, 111 Stat. 251; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; subpart H also issued under 5 U.S.C. 1104.

Subpart A—Coverage

4. In § 842.105, paragraph (b) is revised to read as follows:

§ 842.105 Regulatory exclusions.

* * * * *

(b) When an employee who is covered by FERS moves to a position listed in paragraph (a) of this section without a break in service or after a separation of 3 days or less, his or her FERS coverage will continue, except in the case of an employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

* * * * *

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

5. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; subpart J also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 870.302 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251.

6. In § 870.301, add paragraph (d) to read as follows:

§ 870.301 Eligibility for life insurance.

* * * * *

(d) Notwithstanding any other provision in this part, the hiring of a Federal employee, whether in pay status or nonpay status, for a temporary, intermittent position with the decennial census has no effect on the amount of his/her Basic or Option B insurance, the withholdings or Government contribution for his/her insurance, or the determination of when 12 months in nonpay status ends.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

7. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat.251.

8. In § 890.102, paragraph (g) is added to read as follows:

§ 890.102 Coverage

* * * * *

(g) Notwithstanding any other provision in this part, the hiring of a Federal employee, whether in pay status or nonpay status, for a temporary, intermittent position with the decennial census has no effect on the withholding or Government contribution for his/her coverage or the determination of when 365 days in nonpay status ends.

[FR Doc. 97–33732 Filed 12–23–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV–98–985–1 PR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1998–99 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 1998–99 marketing year. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices, and thus help to maintain stability in the spearmint oil market.

DATES: Comments must be received by January 23, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, D.C. 20090–6456; Fax: (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326–2043; Fax: (503) 326–7440; or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 720–2491; Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax (202) 205–6632.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 985 (7 CFR Part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 1998–99 marketing year, which begins on June 1, 1998. This proposed 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the order, the Committee recommended the salable quantities and allotment percentages for the 1998–99 marketing year at its October 8, 1997, meeting. With 6 members favoring the recommendation and 1 member opposed, the Committee recommended the establishment of a salable quantity and allotment percentage for Class 1 (Scotch) spearmint oil of 1,187,077 pounds and 65 percent, respectively. The member in opposition favored the establishment of a higher salable quantity and allotment percentage. In a unanimous vote, the Committee recommended the establishment of a salable quantity and allotment percentage for Class 3 (Native) spearmint oil of 1,155,217 pounds and 57 percent, respectively.

This proposed rule would limit the amount of spearmint oil that handlers may purchase from, or handle for, producers during the 1998–99 marketing year, which begins on June 1, 1998. Salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980.

The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order accounts for approximately 65 percent of the annual U.S. production of Scotch spearmint oil and approximately 90 percent of the annual U.S. production of Native spearmint oil.

When the order became effective in 1980, the United States produced nearly 100 percent of the world's supply of Scotch spearmint oil, of which approximately 80 percent was produced in the regulated production area in the Far West. International production characteristics have changed in recent years, however, with foreign Scotch spearmint oil production contributing significantly to world production. Although still a leader in production, the Far West's market share has decreased to approximately 41 percent of the world total. Therefore, the Committee's recommendation for Scotch spearmint oil could maintain market stability by avoiding extreme fluctuations in supplies and prices, and would help the industry remain competitive on an international level by hopefully regaining some of the Far West's historical share of the global market. The Committee's recommendation is intended to foster market stability so that the Far West's Scotch spearmint oil market share will not only be retained, but expanded as well.

The order has contributed extensively to the stabilization of producer prices, which prior to 1980 experienced wide fluctuations from year to year. For example, between 1971 and 1975 the

price of Native spearmint oil ranged from $3.00 per pound to $11.00 per pound. In contrast, under the order, prices have stabilized between $10.50 and $11.50 per pound for the past ten years. With approximately 90 percent of the U.S. production located in the Far West, the method of calculating the Native spearmint oil salable quantity and allotment percentage primarily utilizes information on price and available supply as they are affected by the estimated trade demand.

The proposed salable quantity and allotment percentage for each class of spearmint oil for the 1998–99 marketing year is based upon the Committee's recommendation and the data presented below.

(1) Class 1 (Scotch) Spearmint Oil

(A) Estimated carry-in on June l, 1998—456,994 pounds. This figure is derived by subtracting the estimated 1997–98 marketing year trade demand of 853,987 pounds from the revised 1997–98 marketing year total available supply of 1,310,981 pounds.

(B) Estimated world production for the 1997–98 marketing year—2,186,128 pounds.

(C) Estimated Far West production for the 1997–98 marketing year—892,628 pounds.

(D) Far West percentage of total world production in 1997–98—41 percent. This is down from the 1980 level of approximately 80 percent.

(E) Total estimated allotment base for the 1998–99 marketing year—1,826,272 pounds. This figure represents a one percent increase over the revised 1997–98 allotment base.

(F) Recommended 1998–99 allotment percentage—65 percent. This figure is based upon recommendations made at the October 8, 1997, meeting, as well as at the five production area meetings held during September.

(G) The Committee's computed 1998–99 salable quantity—1,187,077 pounds. This figure is the product of the recommended allotment percentage and the total estimated allotment base.

(H) Estimated available supply for the 1998–99 marketing year—1,644,071 pounds. This figure is derived by adding the computed salable quantity to the June 1, 1998, carry-in volume, and represents the total amount of Scotch spearmint oil that could be available to the market during the 1998–99 marketing year.

(I) Estimated trade demand for Far West Scotch spearmint oil during the 1998–99 marketing year—900,000 pounds. This figure is based upon estimates provided to the Committee by buyers of spearmint oil.

(J) Estimated carry-out on June 1, 1999—744,071 pounds. This figure is the difference between the 1998–99 estimated trade demand and the 1998–99 estimated available supply.

(2) Class 3 (Native) Spearmint Oil

(A) Estimated carry-in on June 1, 1998—34,756 pounds. This figure is the difference between the estimated 1997–98 marketing year trade demand of 1,150,000 pounds and the revised 1997–98 marketing year total available supply of 1,184,756 pounds.

(B) Estimated trade demand (domestic and export) for the 1998–99 marketing year—1,178,401 pounds. This figure is based on the average of the three most recent years' sales figures and input from spearmint oil buyers.

(C) Salable quantity required from 1998 production—1,143,645 pounds. This figure is the difference between the estimated 1998–99 marketing year trade demand and the estimated carry-in on June 1, 1998.

(D) Total estimated allotment base for the 1998–99 marketing year—2,026,696 pounds. This figure represents a one percent increase over the revised 1997–98 allotment base.

(E) Computed allotment percentage—56.4 percent. This percentage is computed by dividing the required salable quantity by the total estimated allotment base.

(F) Recommended allotment percentage—57 percent. This is the Committee's recommendation based on the computed allotment percentage.

(G) The Committee's recommended salable quantity—1,155,217 pounds. This figure is the product of the recommended allotment percentage and the total estimated allotment base.

The salable quantity is the total quantity of each class of spearmint oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The Committee's recommended Scotch spearmint oil salable quantity of 1,187,077 pounds and allotment percentage of 65 percent are based on the Committee's goal of maintaining market stability by avoiding extreme fluctuations in supplies and prices, and thereby helping the industry remain competitive on the international level. The Committee's recommended Native spearmint oil salable quantity of 1,155,217 pounds and allotment percentage of 57 percent are based on anticipated supply and trade demand during the 1998–99 marketing year. The proposed salable quantities are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market demand for spearmint oil which may develop during the marketing year can be satisfied by an increase in the salable quantities. Both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 1998–99 season may transfer such excess spearmint oil to a producer with spearmint oil production less than his or her annual allotment or put it into the reserve pool.

This proposed regulation, if adopted, would be similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this proposed action are expected to be offset by the benefits derived from a stable market, a greater market share, and possible improved returns. In conjunction with the issuance of this proposed rule, the Committee's marketing policy statement for the 1998–99 marketing year has been reviewed by the Department. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulations, fully meets the intent of section 985.50 of the order. During its discussion of potential 1998–99 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with the Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' has also been reviewed and confirmed.

The establishment of these salable quantities and allotment percentages would allow for anticipated market needs. In determining anticipated market needs, consideration by the Committee was given to historical sales, and changes and trends in production and demand. This rule also provides producers with information on the amount of spearmint oil which should be produced for next season in order to meet anticipated market demand.

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

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 9 spearmint oil handlers subject to regulation under the order, and approximately 124 producers of Class 1 (Scotch) spearmint oil and approximately 110 producers of Class 3 (Native) spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those whose annual receipts are less than $500,000.

Based on the SBA's definition of small entities, the Committee estimates that two of the nine handlers regulated by the order would be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 29 of the 124 Scotch spearmint oil producers and 14 of the 110 Native spearmint oil producers would be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. A normal spearmint oil producing operation would have enough acreage for rotation such that the total acreage required to produce the crop would be about one-third spearmint and two-thirds rotational crops. An average spearmint oil producing farm would thus have to have considerably more acreage than would be planted to spearmint during any given season. To remain economically viable with the added costs associated with spearmint production, most spearmint oil producing farms would fall into the SBA category of large businesses in order to remain economically viable due to added costs associated with the production of spearmint oil.

This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 1998–99 marketing year. The committee recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices, and thus help to maintain stability in the spearmint oil market. This action is authorized by the provisions of sections 985.50, 985.51 and 985.52 of the order.

Small spearmint oil producers generally are not extensively diversified and as such are more at risk to market fluctuations. Such small farmers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because incomes from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

The order has contributed extensively to the stabilization of producer prices, which prior to 1980 experienced wide fluctuations from year to year. For example, between 1971 and 1975 the price of Native spearmint oil ranged from $3.00 per pound to $11.00 per pound. In contrast, under the order, prices have stabilized between $10.50 and $11.50 per pound for the past ten years.

Alternatives to the proposal included not regulating the handling of spearmint oil during the 1998–99 marketing year, and recommending either higher or lower levels for the salable quantities and allotment percentages. The Committee reached its recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil after careful consideration of all available information, including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Based on its review, the Committee believes that the salable quantity and allotment percentage levels recommended will achieve the objectives sought.

Without any regulations in effect, the Committee believes the industry would return to the pattern of cyclical prices of prior years, as well as suffer the potentially price depressing consequence that a release of the nearly 1.2 million pounds of spearmint oil reserves would have on the market. According to the Committee, higher or lower salable quantities and allotment percentages would not achieve the intended goals of market and price stability, with market share maintenance and growth.

Annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception. Reporting and recordkeeping requirements have remained the same for each year of regulation. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers and handlers. All reports and forms associated with this program are reviewed periodically in order to avoid unnecessary and duplicative information collection by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

Finally, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. Interested persons are also invited to submit information on the regulatory and informational impacts of this action on small businesses.

A 30-day comment period is provided to allow interested persons the opportunity to respond to the proposal, including any regulatory and informational impacts of this action on small businesses. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible to provide producers sufficient time prior to the beginning of the 1998–99 marketing year to adjust their cultural and marketing plans accordingly. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is proposed to be amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 985.217 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 985.217 Salable quantities and allotment percentages—1998–99 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1998, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 1,187,077 pounds and an allotment percentage of 65 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,155,217 pounds and an allotment percentage of 57 percent.

Dated: December 18, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–33592 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 102, 104 and 108

[Notice 1997–21]

Recordkeeping and Reporting

AGENCY: Federal Election Commission.

ACTION: Notice of Public Hearing.

SUMMARY: The Federal Election Commission is announcing a public hearing on proposed changes to its regulations that govern recordkeeping, reporting, and filing with State officers under the Federal Election Campaign Act of 1971, as amended.

DATES: The hearing will be held at 10:00 a.m. on February 11, 1998. Requests to testify must be received on or before January 23, 1998. Persons requesting to testify also must submit written comments by January 23, 1998, if they have not previously filed written comments on the proposed rules.

ADDRESSES: Requests to testify, and any accompanying comments, should be addressed to Ms. Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written requests and comments should be sent to the Commission's postal service address: Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Faxed requests and comments should be sent to (202) 219–3923. Commenters submitting faxed documents also should submit a printed copy to the Commission's postal service address to ensure legibility. Requests to testify and comments also may be sent by electronic mail to ''reprec@fec.gov''. Persons sending requests and comments by electronic mail should include their full name, electronic mail address and postal service address within the text of the request and comments. Commission hearings are held in the Commission's ninth floor meeting room, 999 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Teresa A. Hennessy, Attorney, 999 E Street, N.W., D.C. 20463, (202) 219–3690 or (800)424–9530.

SUPPLEMENTARY INFORMATION: On September 26, 1997, the Commission published in the **Federal Register** a Notice of Proposed Rulemaking ['NPRM'] on multiple amendments to the requirements for recordkeeping, reporting, and filing with State officers at 11 CFR 102.9, 104.3 and part 108. 62 FR 50708. The NPRM announced that a hearing on the proposed rules would be held on November 5, 1997 if the Commission received sufficient requests to testify.

The comment period on the NPRM ended on October 27, 1997. The Commission received comments from four sources; three of these did not request to testify at a hearing. A fourth expressed interest in testifying but was unable to appear on the scheduled hearing date. After further considering this comment, as well as the other comments received in response to the NPRM, the Commission believes a public hearing would be beneficial in considering the issues raised in the rulemaking. The hearing will be held at 10:00 a.m. on February 11, 1998.

Dated: December 18, 1997.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 97–33561 Filed 12–23–97; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–70–AD]

RIN 2120–AA64

Airworthiness Directives; Socata—Groupe Aerospatiale Models TB9, TB10, and TB200 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA—Groupe AEROSPATIALE (Socata) Models TB9, TB10, and TB200 airplanes. The proposed AD would require inspecting the main landing gear (MLG) support ribs for cracks, replacing MLG support ribs that have cracks beyond a certain level, and incorporating a certain MLG support rib reinforcement kit. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent MLG failure caused by cracks in the support ribs, which could result in loss of control of the airplane during landing operations.

DATES: Comments must be received on or before January 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–CE–70–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone: 62.41.74.26; facsimile: 62.41.74.32; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 964–6877; facsimile: (954) 964–1668. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201

Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–70–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 95–CE–70–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Socata Models TB9, TB10, and TB200 airplanes. The DGAC reports several incidents of the main landing gear (MLG) support ribs cracking on the above-referenced airplanes. These conditions, if not detected and corrected, could result in MLG failure with consequent loss of control of the airplane during landing operations.

Relevant Service Information

Socata has issued Service Bulletin No. SB 10–085, Amdt. 2, dated April 1996, which specifies procedures for inspecting the MLG support ribs for cracks. Also included in this service bulletin is reference to certain MLG support rib reinforcement kits that should be incorporated on the Socata Models TB9, TB10, and TB200 airplanes, depending on the inspection results. The procedures for incorporating the modification kits are either in the technical instructions included with the kit or the maintenance manual.

The DGAC classified this service bulletin as mandatory and issued DGAC AD 94–265(A)R4, dated June 19, 1996, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Socata Models TB9, TB10, and TB200 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the MLG support ribs for cracks, replacing any MLG support ribs that have cracks beyond a certain level, and incorporating a certain MLG support rib reinforcement kit if cracks beyond a certain level are not found. Accomplishment of the proposed inspections would be in accordance with Socata Service Bulletin No. SB 10–085, Amdt. 2, dated April 1996. Accomplishment of the proposed kit modifications, as applicable, would be in accordance with either the technical instructions included with the kit or the maintenance manual.

Differences Between the French AD, the Service Bulletin, and This Proposed AD

French AD 94–265(A)R4, dated June 19, 1996, and Socata Service Bulletin No. SB 10–085, Amdt. 2, dated April 1996, both give the owners/operators of certain Models TB10 and TB200 airplanes the option of incorporating a MLG support rib reinforcement kit or repetitively inspecting if no cracks are found in the MLG support ribs during the initial inspection.

The FAA's policy is to provide corrective action that will eliminate the need for repetitive inspections. The FAA has determined that long-term operational safety will be better assured by design changes that remove the source of the problem, rather than by repetitive inspections or other special procedures.

Because the incorporation of the applicable MLG support rib reinforcement kit on the affected airplanes eliminates the need for repetitive inspections, the proposed AD differs from the service bulletin and French AD in that it would mandate eventual incorporation of the applicable MLG support rib reinforcement kit.

Cost Impact

The FAA estimates that 146 airplanes in the U.S. registry would be affected by the proposed AD.

Accomplishing the proposed inspection would take approximately 1 workhour per airplane, at an average labor rate of approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $8,760, or $60 per airplane.

The proposed modification would take approximately 1 workhour to incorporate the applicable kits on each wing (total of 2 workhours), at an average labor rate of $60 per hour. Parts cost approximately $1,200 per airplane ($300 per kit; 2 kits per wing × 2 wings per airplane). Based on these figures, the total cost impact of the proposed modification on U.S. operators is estimated to be $192,720 or $1,320 per airplane.

Regulatory Impact

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

For the reasons discussed above, I certify that this 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Socata—Groupe Aerospatiale: Docket No. 95–CE–70–AD.

Applicability: Models TB9, TB10, and TB200 airplanes, serial numbers 1 through 9999, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent main landing gear (MLG) failure caused by cracks in the support ribs, which could result in loss of control of the airplane during landing operations, accomplish the following:

Note 2: The compliance times of this AD are presented in landings instead of hours time-in-service (TIS). If the number of landings is unknown, hours TIS may be used by multiplying the number of hours TIS by 0.67.

Note 3: The paragraph structure of this AD is as follows: Level 1: (a), (b), (c), etc.; Level 2: (1), (2), (3), etc.; Level 3: (i), (ii), (iii), etc. Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) For TB9, serial numbers (S/N) 1 through 1442 and 1444 through 1574; and TB10, S/N 1 through 803; 805; 806; 809 through 815; 820; 821; and 822, airplanes that are not equipped with either wing rib reinforcement kit No. OPT10910800 (TB9 and TB10 airplanes) or do not have reinforced ribs (TB10 airplanes), part number (P/N) TB10 11008001 and P/N TB10 11008002, accomplish the following:

(1) Upon accumulating 1,500 landings on the MLG support ribs or within the next 75 landings after the effective date of this AD, whichever occurs later, inspect the MLG support ribs for cracks at all four locations (two per wing) in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Socata Service Bulletin No. SB 10–085, Amdt. 2, dated April 1996.

(2) If any cracks are found that are out of the tolerances specified in the maintenance manual, prior to further flight, replace the ribs with reinforced ribs, P/N TB10 11008001 and P/N TB10 11008002. Accomplish the replacement in accordance with the maintenance manual.

(3) If any cracks are found that are within the tolerances specified in the maintenance manual, prior to further flight, incorporate wing rib reinforcement kit No. OPT10910800 in accordance with the maintenance manual.

(4) If no cracks are found, upon accumulating 3,000 landings on the MLG support ribs or within the next 100 landings after the effective date of this AD, whichever occurs later, incorporate wing rib reinforcement kit No. OPT10910800 in accordance with the maintenance manual.

(b) For Models TB10 and TB200 airplanes, S/N 804; 807; 808; 816 through 819; 823 through 1701; 1707 through 1733; and 1737 to 1761, accomplish the following:

(1) Upon accumulating 6,000 landings on the MLG support ribs or within the next 75 landings after the effective date of this AD, whichever occurs later, inspect the MLG support ribs for cracks at all four locations (two per wing) in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Socata Service Bulletin No. SB 10–085, Amdt. 2, dated April 1996.

(2) At the applicable compliance time presented below, incorporate wing rib reinforcement kit No. OPT10 920100 in accordance with the Technical Instruction of Modification, OPT10 9201–57, Reinforcement of the Main Landing Gear Support Ribs, which incorporates the following pages:

Pages	Revision level	Date
1 and 2	Amendment 1	April 1996.
3 through 27	Original Issue ..	November 1995.

(i) Prior to further flight if any cracks are found.

(ii) Upon accumulating 7,500 landings on the MLG support ribs or within the next 100 landings after the effective date of this AD, whichever occurs later, if no cracks are found.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to the service information referenced in this AD should be directed to the SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone: 62.41.74.26; facsimile: 62.41.74.32; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 964–6877; facsimile: (954) 964–1668. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City.

Note 5: The subject of this AD is addressed in French AD 94–265(A)R4, dated June 19, 1996.

Issued in Kansas City, Missouri, on December 16, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33511 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–143–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model 4100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model 4100 series airplanes. This proposal would require replacement of the stringer joint pieces at the left side of the fuselage with new, improved parts. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent the fuselage structure at the stringer joint at station 130 on the left side of the airplane from cracking, which could result in rapid decompression of the airplane at the forward fuselage area.

DATES: Comments must be received by January 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–143–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AI(R) American Support, Inc., 13850 McLearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–143–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–143–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace Model 4100 series airplanes. The CAA advises that a batch of fuselage stringer joint pieces were incorrectly formed during manufacturing. This condition, if not corrected, could cause reduced fatigue strength properties of the joint piece, cracking, and failure of the fuselage structure on the stringer joint at four positions at station 130 on the left side of the airplane, which could result in rapid decompression of the aircraft at the forward fuselage area.

Explanation of Relevant Service Information

Jetstream has issued Service Bulletin J41–53–039, dated August 22, 1996, which describes procedures for replacement of certain stringer joint pieces with new, improved parts. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 005–08–96 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 10 Model 4100 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 70 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $42,000, or $4,200 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the

various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft
[Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 97–NM–143–AD.

Applicability: Model 4100 series airplanes, constructors numbers 41081 through 41091 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the fuselage structure at the stringer joint at station 130 on the left side of the airplane from cracking, which could result in rapid decompression of the airplane at the forward fuselage area, accomplish the following:

(a) Within 6,000 flight hours after the effective date of this AD, replace the stringer joint pieces at four positions at station 130 on the left side of the airplane with new, improved parts in accordance with the Accomplishment Instructions of Jetstream Service Bulletin J41–53–039, dated August 22, 1996.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in the British airworthiness directive 005–08–96.

Issued in Renton, Washington, on December 16, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33510 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–209484–87 and REG–209807–95]

RIN 1545–AF97; 1545–AT99

FICA and FUTA Taxation of Amounts Under Employee Benefit Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a revision to the proposed regulations under section 3121(v)(2) of the Internal Revenue Code of 1986, relating to when amounts deferred under or paid from certain nonqualified deferred compensation plans are taken into account as ''wages'' for purposes of the taxes imposed by the Federal Insurance Contributions Act (FICA). This document extends the proposed general effective date of the regulations to January 1, 1998. The extension also applies to the proposed regulations under section 3306(r)(2), relating to when amounts deferred under or paid from certain nonqualified deferred compensation plans are taken into account as ''wages'' for purposes of the taxes imposed by the Federal Unemployment Tax Act (FUTA), due to the cross-reference therein to the provisions of the proposed regulations under section 3121(v)(2).

DATES: Written comments and requests for a public hearing must be received by March 24, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (EE–142–87), room 5228, Internal Revenue Service, P.O. Box 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:R (REG–209484–87), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW. Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax—regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Janine Cook, (202) 622–6040 (not a toll-free number), concerning the regulations, and Michael Slaughter, (202) 622–7190 (not a toll-free number), concerning submissions.

SUPPLEMENTARY INFORMATION:

Background

This document contains a revision to the proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 3121(v)(2) of the Internal Revenue Code of 1986 (Code), relating to the Federal Insurance Contributions Act (FICA) tax treatment of amounts deferred under or paid from certain nonqualified deferred compensation plans. The proposed regulations were published in the **Federal Register** on January 25, 1996 (61 FR 2194), with a proposed general effective date of January 1, 1997. This document extends the proposed general effective date to January 1, 1998. The same issue of the **Federal Register** contained proposed amendments to the Employment Tax Regulations under

section 3306(r)(2) of the Code, relating to the Federal Unemployment Tax Act (FUTA) tax treatment of amounts deferred under or paid from certain nonqualified deferred compensation plans (61 FR 2214). The proposed regulations under section 3306(r)(2) cross-reference the provisions of the proposed regulations under section 3121(v)(2), including the proposed general effective date. Consequently, the extension of the effective date under the proposed regulations under section 3121(v)(2) automatically applies to the proposed regulations under section 3306(r)(2).

The project numbers assigned to the notices of proposed rulemaking setting forth the proposed regulations under section 3121(v)(2) and section 3306(r)(2) were EE–142–87 and EE–55–95, respectively. Due to changes in the Internal Revenue Service's regulations numbering system, the project numbers for this notice of proposed rulemaking have been changed to REG–209484–87 and REG–209807–95, respectively, as reflected at the beginning of this document.

Explanation of Provisions

Section 31.3121(v)(2)–1(g)(1)(i) of the proposed regulations provides that the proposed general effective date of the regulations is January 1, 1997. Because the final regulations have not been issued, this document contains an amendment to the proposed regulations to extend the proposed general effective date to January 1, 1998. This extension of the proposed general effective date also applies to § 31.3306(r)(2)–1 of the proposed regulations due to the cross-reference therein to the provisions in the proposed regulations under section 3121(v)(2).

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 Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the 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 Requests for a Public Hearing

Before this revision to the proposed regulations is adopted as part of the final regulations, consideration will be given to any written comments (preferably 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 may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this revision to the proposed regulations is Janine Cook, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment tax, Withholding.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

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

Par. 2. Section 31.3121(v)(2)–1 as proposed to be added at 61 FR 2199, January 25, 1996, is amended by revising paragraph (g)(1)(i) to read as follows:

§ 31.3121(v)(2)–1 Treatment of amounts deferred under certain nonqualified deferred compensation plans.

* * * * *

(g) Effective date and transition rules—(1) *General effective date*—(i) *Effective date.* Except as otherwise provided in this paragraph (g) or in § 31.3121(v)–2, this section is effective for amounts deferred and benefits paid on or after January 1, 1998.

* * * * *

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 97–33247 Filed 12–23–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 989

RIN 0701–AA56

Environmental Impact Analysis Process (EIAP)

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to revise its instruction to improve the Air Force process for compliance with the National Environmental Policy Act (NEPA) and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions. The revisions integrate environmental analysis and align environmental document approval levels with the Air Force decision-making process. It also expands Air Force environmental participants and responsibilities of the Environmental Planning Function (EPF) and the proponent of an action. The public is invited to submit comments on these changes to the point of contact listed below.

DATES: Comments must be received no later than February 23, 1998.

ADDRESSES: Comments should be submitted to HQ USAF/ILEVP, 1260 Air Force Pentagon, Washington, DC 20330–1260.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth L. Reinertson or Mr. Jack C. Bush, (703) 695–8942.

SUPPLEMENTARY INFORMATION:

Discussion of Major Issues

a. References to procurement publications that provide separate procedures for application of NEPA in the acquisition area are updated.

b. References to office symbols are updated.

c. Specific guidance is provided in section 989.3(c)(3) for application of NEPA to single manager acquisition programs, specifying, among other things, that the Air Force Acquisition Executive Office is the final approval authority for all system-related NEPA documents.

d. More specific reference is provided in section 989.3(c)(4) as to who are key Air Force participants and to the need for an integrated team effort involving other federal agencies, state, Tribal, and local governments, and interested members of the public.

e. More specific guidance is provided in section 989.3(d)(1) to ensure the EIAP is integrated early in the planning stages of an action.

f. Specific guidance is provided in section 989.3(d)(4) to promote early internal scoping in order to determine what level of environmental analysis is performed.

g. In section 989.3(e), the environmental planning function (EPF) is designated as the primary support to the proponent in EIAP actions. The EPF's responsibilities are specifically explained.

h. Section 989.3(h) provides for increased participation of the public affairs office in the EIAP process.

i. Throughout the instruction, whenever participation of state and local governments is provided for, Tribal governments have been added.

j. In section 989.5(b), certain continuing internal reporting requirements regarding aircraft beddown and unit realignment actions are eliminated.

k. In section 989.8(c), additional language notes that only in rare instances is the no-action alternative excused by law from analysis.

l. In section 989.13(c), additional language notes the distinction, in cases of analysis abroad, between exemptions under DoDD 6050.7 and categorical exclusions (CATEXs). The exemptions are provided by Executive Order 12114. CATEXs are provided by the implementing agency.

m. In section 989.14(d), additional guidance is provided to promote substantive but brief EIAP analyses so as to avoid unnecessary data and keep documents to a usable length.

n. In section 989.14(k), hazardous waste disposal sites have been deleted from the list of actions normally requiring an EA.

o. The provision for abbreviated EAs has been deleted. As noted above, analyses should be as lengthy as necessary but no more so; no provision for a special type of EA is necessary.

p. In section 989.14(l), the proponent is now required to involve other interested federal agencies, state, Tribal, and local governments, and the public in preparing an EA.

q. In section 989.15(e), requirements regarding public review of EAs and findings of no significant impact (FONSIs) are clarified to ensure the public understands that the FONSI has not been signed prior to public review.

r. In section 989.15(e)(2), the list of instances when mandatory 30 day public review of an EA and FONSI is required now includes those that would have a disproportionately high and adverse environmental effect on minority and low-income populations.

s. In section 989.18(a), more detailed guidance is provided to improve the scoping process for environmental impact statements (EISs). The guidance provides for an early, continuing, iterative process involving other governmental entities, Congress, and the public in a more meaningful manner. It also provides for scoping to continue through preparation of the draft EIS.

t. In section 989.18(b), specific provision is made to include minority and low-income populations in the scoping process.

u. In section 989.19(c)(3), specific provision is made to include minority and low-income populations in the public review process of EISs.

v. In section 989.27, the statement that compliance with OSHA standards will mitigate hazards has been deleted.

w. A new Section 989.32 addresses aircraft noise data used in EIAP analysis.

x. A new Section 989.33 requires compliance with E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

y. In section 989.34(b), guidance is clarified regarding emergency situations and the need to still comply with NEPA. Compliance is still required, but emergency responses may take place while completing the EIAP.

z. In section 989.35(b), authority is provided to utilize the internet to distribute documents and notices.

aa. A new Section 989.36 is included to address waivers for unusual circumstances and to allow experimentation to help the EIAP process grow. These waivers can only be approved by the Air Force Secretariat.

ab. The definition of ''scoping'' is changed to include affirmative efforts to communicate with other federal agencies, state, Tribal, and local governments, and the public.

ac. In section A2.2.8, an additional example dealing with proposals having a significant adverse effect on minority and low-income populations is included in the list of examples where use of a categorical exclusion is likely to require additional analysis.

ad. In section A2.3, categorical exclusion A2.3.10 is changed to include lead-based paint as an additional example.

ae. In section A2.3, categorical exclusion A2.3.18 is changed to clarify that it does not apply in the case of a transfer to GSA.

af. In section A2.3, categorical exclusion A2.3.26 is changed to refer to the Defense Environmental Restoration Program and RCRA Corrective Action sites in place of a generic reference. Additionally, the reference to the categorical exclusion not applying to the selection of a remedial action is eliminated.

ag. In section A2.3, categorical exclusion A2.3.30 is changed by deleting the reference to separate evaluation for long term cleanup and remediation activities.

ah. In section A2.3, categorical exclusion A2.3.31 is changed by restricting its use to non-repetitive situations. It also requires documentation of its use.

ai. In section A2.3, categorical exclusion A2.3.36 is changed by adding an additional limitation of 3000 feet above ground level.

aj. In section A3.1.3, flexibility is provided to public hearing formats by allowing experimentation with different formats than normally used, depending on the circumstances. Approval for deviations must be approved by the Air Force Secretariat.

ak. In section A3.2.1.3, the public affairs office will now always purchase a public advertisement to advise public hearings.

al. In section A3.6, responsibility for preparing and checking the transcript of a public hearing is shifted from the military trial judge to the EIS preparation team.

am. The provision for organizing speakers by subject at a public hearing has been deleted.

an. In addition to the above specific items, there have been numerous grammatical changes and minor clarifications made to the instruction.

The Department of the Air Force has determined that this rule is not a major rule because it will not have an annual effect on the economy of $100 million or more. The Secretary of the Air Force has certified that this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because this rule does not have a significant economic impact on small entities as defined by the Act, and does not impose any obligatory information requirements beyond internal Air Force use.

List of Subjects in 32 CFR Part 989

Environmental protection, Environmental impact statements.

For the reasons stated in the preamble, the United States Air Force proposes to revise 32 CFR part 989 as follows:

PART 989—ENVIRONMENTAL IMPACT ANALYSIS PROCESS (EIAP)

Sec.
989.1 Purpose.
989.2 Concept.
989.3 Responsibilities.
989.4 Initial considerations.
989.5 Organizational relationships.
989.6 Budgeting and funding.
989.7 Requests from non-Air Force agencies or entities.
989.8 Analysis of alternatives.
989.9 Cooperation and adoption.
989.10 Tiering.
989.11 Combining EIAP with other documentation.
989.12 Air Force Form 813 Request for Environmental Impact Analysis.
989.13 Categorical exclusion.
989.14 Environmental assessment.
989.15 Finding of no significant impact.
989.16 Environmental impact statement.
989.17 Notice of intent.
989.18 Scoping.
989.19 Draft EIS.
989.20 Final EIS.
989.21 Record of decision (ROD).
989.22 Mitigation.
989.23 Contractor prepared documents.
989.24 Public notification.
989.25 Base closure and realignment.
989.26 Classifed actions (40 CFR 1507.3(c)).
989.27 Occupational safety and health.
989.28 Airspace and range proposals.
989.29 Force structure and unit move proposals.
989.30 Air quality.
989.31 Pollution prevention.
989.32 Noise.
989.33 Environmental justice.
989.34 Special and emergency procedures.
989.35 Reporting requirements.
989.36 Waivers.
989.37 Procedures for analysis abroad
989.38 Requirements for analysis abroad.

Attachment 1 to Part 989—Gloassary of References, Abbreviations, Acronyms, and Terms.

Attachment 2 to Part 989—Categorical Exclusions.

Attachment 3 to Part 989—Procedures for Holding Public Hearings on Draft Environmental Impact Statements (EIS).

Authority: 10 U.S.C. 8013.

§ 989.1 Purpose.

(a) This part implements the Air Force Environmental Impact Analysis Process (EIAP) and provides procedures for environmental impact analysis both within the United States and abroad. Because the authority for, and rules governing, each aspect of the EIAP differ depending on whether the action takes place in the United States or outside the United States, this part provides largely separate procedures for each type of action. Consequently, the main body of this part deals primarily with environmental impact analysis under the authority of the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91–190, 42 United States Code (U.S.C.) 4321–4347), while the primary procedures for environmental impact analysis of actions outside the United States in accordance with Executive Order (E.O.) 12114, Environmental Effects Abroad of Major Federal Actions, are contained in §§ 989.32 and 989.33.

(b) The procedures in this part are essential to achieve and maintain compliance with NEPA and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA (40 Code of Federal Regulations (CFR) Parts 1500–1508, referred to as the ''CEQ Regulations''). Further requirements are contained in the Department of Defense Directive (DoDD) 4715.1, Environmental Security, Department of Defense Instruction (DoDI) 4715.9, Environmental Planning and Analysis, DoDD 5000.1, Defense Acquisition, and Department of Defense 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information Systems (MAIS) Acquisition Programs with Change 1.[1] To comply with NEPA and complete the EIAP, the CEQ Regulations and this part must be used together.

(c) Air Force activities abroad will comply with this part, Executive Order 12114, and 32 CFR Part 187 (DoDD 6050.7, Environmental Effects Abroad of Major Department of Defense Actions, March 31, 1979). To comply with E.O. 12114 and complete the EIAP, the Executive Order, 32 CFR part 187, and this part must be used together.

(d) Attachment 1 is a glossary of references, abbreviations, acronyms, and terms. Refer to 40 CFR part 1508 for definitions of other terminology used in this part.

§ 989.2 Concept.

(a) This part provides a framework on how to comply with NEPA and Executive Order 12114 according to Air Force Policy Directive (AFPD) 32–70.[2] The Air Force specific procedures and requirements in this part are intended to be used by Air Force decision makers to fully comply with NEPA and the EIAP.

(b) Major Commands (MAJCOM) provide additional implementing guidance in their supplemental publications to this part. MAJCOM supplements must identify the specific offices that have implementation responsibility and include any guidance needed to comply with this part. All references to MAJCOMs in this part include the Air National Guard Readiness Center (ANGRC) and other agencies designated as ''MAJCOM equivalent'' by HQ USAF.

§ 989.3 Responsibilities.

(a) Office of the Secretary of the Air Force.

(1) The Deputy Assistant Secretary of the Air Force for Environment, Safety and Occupational Health (SAF/MIQ):

(i) Develops environmental planning policy and provides oversight of the EIAP program.

(ii) Determines the level of environmental analysis required for especially important, visible, or controversial Air Force proposals and approves selected Environmental Assessments (EAs) and all Environmental Impact Statements (EISs) prepared for Air Force actions, whether classified or unclassified, except as specified in (c)(3) of this section.

(iii) Is the liaison on environmental matters with Federal agencies and national-level public interest organizations.

(iv) Ensures appropriate offices in the Office of the Secretary of Defense are kept informed on EIAP matters of Defense-wide interest.

(2) The General Counsel (SAF/GC). Provides final legal advice to SAF/MI, HQ USAF, and HQ USAF Environment, Safety and Occupational Health Committee (ESOHC) on EIAP issues.

(3) Office of Legislative Liaison (SAF/LL):

(i) Assists with narrowing and defining key issues by arranging consultations with congressional delegations on potentially sensitive actions.

(ii) Distributes draft and final EISs to congressional delegations.

(iii) Reviews and provides the Office of the Secretary of Defense (OSD) with analyses of the Air Force position on proposed and enrolled legislation and executive department testimony dealing with EIAP issues.

(4) Office of Public Affairs (SAF/PA):

(i) Reviews and clears environmental documents in accordance with Air Force Instruction 35–205, Air Force Security and Policy Review,[3] prior to public release.

(ii) Assists the environmental planning function and the Air Force Legal Services Agency, Trial Judiciary

[1] Copies of the publications are available, at cost, from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to § 989.1.

[3] See footnote 1 to § 989.1.

Division (AFLSA/JAJT), in planning and conducting public scoping meetings and hearings.

(iii) Ensures that public affairs aspects of all EIAP actions are conducted in accordance with this part and Air Force Instruction (AFI) 35–202, Environmental Community Involvement[4].

(iv) The National Guard Bureau, Office of Public Affairs (NGB–PA), will assume the responsibilities of SAF/PA for the EIAP involving the National Guard Bureau, Air Directorate.

(b) Headquarters US Air Force (HQ USAF). The Civil Engineer (HQ USAF/ILE) is responsible for execution of the EIAP program. The National Guard Bureau Air Directorate (NGB–CF) oversees the EIAP for Air National Guard actions.

(c) MAJCOMs, the Air National Guard, Field Operating Agencies (FOAs), and Single Manager Programs. These organizations establish procedures that comply with this part wherever they are the host unit for preparing and using required environmental documentation in making decisions about proposed actions and programs within their commands or areas of responsibility.

(1) Air Force Center for Environmental Excellence (AFCEE). The AFCEE Environmental Conservation and Planning Directorate (AFCEE/EC) is available to provide technical assistance and has the capability to provide contract support to the proponent, EPF, and MAJCOMs in developing EIAP documents.

(2) Air Force Regional Environmental Offices (REOs). REOs review non-Air Force environmental documents that may have an impact on the Air Force. Requests for review of such documents should be directed to the proper REO (Atlanta, Dallas, or San Francisco) along with any relevant comments. The REO:

(i) Notifies the proponent, after receipt, that the REO is the single point of contact for the Air Force review of the document.

(ii) Requests comments from potentially affected installations, MAJCOMs, the ANG, and HQ USAF, as appropriate.

(iii) Consolidates comments into the Air Force official response and submits the final response to the proponent.

(iv) Provides to HQ USAF/ILEVP and the appropriate MAJCOMs and installations a copy of the final response and a complete set of all review comments.

(3) Single Manager Acquisition Programs (system-related NEPA). The proponent Single Manager (i.e., System Program Director, Materiel Group Managers, and Product Group Managers) for all programs, regardless of acquisition category, shall comply with DoD 5000.2–R.[5] SAF/AQR, as the Air Force Acquisition Executive Office, is the final approval authority for all system-related NEPA documents. SAF/AQR is responsible for accomplishing appropriate Headquarters EPC/ESOHC review. The Single Manager will obtain appropriate Product Center EPC approval prior to forwarding necessary EIAP documents (i.e., NOIs and preliminary draft and final EAs and EISs) to SAF/AQR. The Single Manager will allow for concurrent review of EIAP documents by HQ AFMC/ILEV and the Operational Command (HQ ACC, HQ AMC, HQ AFSPC, etc.). The Single Manager is responsible for budgeting and funding EIAP efforts, including EIAP for research, development, testing, and evaluation activities.

(4) Key Air Force Environmental Participants. The EIAP must be approached as an integrated team effort including key participants within the Air Force and also involving outside federal agencies, state, Tribal, and local governments, interested outside parties, citizens groups, and the general public. Key Air Force participants may include the following functional areas, as well as others:

Proponent
Civil Engineers/Environmental Planning Function
Staff Judge Advocate
Public Affairs
Medical Service (Bioenvironmental Engineer)
Safety Office
Range and Airspace Managers
Bases and Units
Plans and Programs
Logistics
Personnel
Legislative Liaison

(d) Proponent. Each office, unit, or activity at any level that initiates Air Force actions is responsible for:

(1) The EIAP and shall ensure integration of the EIAP during the initial planning stages of proposed actions so that planning and decisions reflect environmental values, delays are avoided later in the process, and potential conflicts are precluded.

(2) Notifying the EPF of a pending action and completion Section I of AF Form 813. Prepare the Description Of Proposed Action and Alternatives (DOPAA) through an interdisciplinary team approach including the EPF and other key Air Force participants.

(3) Identifying key decision points and coordinating with the EPF on EIAP phasing to ensure that environment documents are available to the decision-maker before the final decision is made and ensuring that, until the EIAP is complete, resources are not committed prejudicing the selection of alternatives nor actions taken having an adverse environmental impact or limiting the choice of reasonable alternatives.

(4) Determining, with the EPF, as early as possible whether to prepare an EIS. The proponent and the EPF will conduct an early internal scoping process as part of the EIAP process. The internal scoping process should involve key Air Force environmental participants (See § 989.3(c)(4)) and other Air Force offices as needed and conclude with preparation of a DOPAA. For complex or detailed EAs or EISs, an outside facilitator trained in EIAP may be used to focus and guide the discussion. Department of the Air Force personnel, rather than contractors, should generally be used to prepare the DOPAA.

(5) Presenting the DOPAA to the EPC for review and comment.

(6) Coordinating with the EPF, Public Affairs, and Staff Judge Advocate prior to organizing public or interagency meetings which deal with EIAP elements of a proposed action and involving persons or agencies outside the Air Force.

(7) Subsequent to the decision to prepare an EIS, assisting the EPF and Public Affairs Office in preparing a draft Notice of Intent (NOI) to prepare an EIS. All NOIs must be forwarded through the MAJCOM EPF to HQ USAF/ILEV for review and publication in the **Federal Register.** Publication in the **Federal Register** is accomplished in accordance with AFI 37–120, **Federal Register**.[6] (See § 989.17.)

(8) Ensuring that proposed actions are implemented as described in the final EIAP decision documents.

(e) Environmental Planning Function (EPF). At every level of command, the EPF is one of the key Air Force participants responsible for the EIAP. The EPF can be the environmental flight within a civil engineer squadron, a separate environmental management office at an installation, the ILEV at MAJCOMs, or an equivalent environmental function located with a program office. The EPF:

(1) Supports the EIAP by bringing key participants in at the beginning of a proposed action and involving them throughout the EIAP. Key participants

[4] See footnote 1 to § 989.1.

[5] See footnote 1 to § 989.1.

[6] See footnote 1 of § 989.1.

play an important role in defining and focusing key issues at the initial stage.

(2) At the request of the proponent, prepares environmental documents using an interdisciplinary approach, or obtains technical assistance through Air Force channels on contract support. Assists the proponent in obtaining review of environmental documents.

(3) Assists the proponent in preparing a (DOPAA) and actively supports the proponent during all phases of the EIAP.

(4) Evaluates proposed actions and completes Section II and III of AF Form 813, Request for Environmental Impact Analysis, subsequent to submission by the proponent and determines whether a Categorical Exclusion (CATEX) applies. The responsible EPF member signs the AF Form 813 certification.

(5) Identifies and documents, with technical advice from the Bioenvironmental Engineer and other staff members, environmental quality standards that relate to the action under evaluation.

(6) Supports the proponent in preparing environmental documents, or obtains technical assistance through Air Force channels or contract support and adopts the documents as official Air Force papers when completed and approved.

(7) Ensures the EIAP is conducted on base-level and MAJCOM-level plans, including contingency plans for the training, movement, and operations of Air Force personnel and equipment.

(8) Prepares the Notice of Intent (NOI) to prepare an EIS with assistance from the proponent and the Public Affairs Office.

(9) Prepares applicable portions of the Certificate of Compliance for each military construction project according to AFI 32–1021, Planning and Programming of Facility Construction Projects.[7]

(10) Submits one hard copy and one electronic copy of the final EA/Finding Of No Significant Impact (FONSI) and EIS/Record of Decision (ROD) to the Defense Technical Information Center.

(f) Environmental Protection Committee (EPC). The EPC helps commanders assess, review and approve EIAP documents in accordance with AFI 32–7005, Environmental Protection Committee.[8]

(g) Staff Judge Advocate (SJA). The Staff Judge Advocate:

(1) Advises the proponent, EPF, and EPC on CATEX determinations and the legal sufficiency of environmental documents.

(2) Advises the EPF during the scoping process of issues that should be addressed in EIS's and on procedures for the conduct of public hearings.

(3) Coordinates the appointment of the independent hearing officer with AFLSA/JAJT and provides support for the hearing officer in cases of public hearings on the draft EIS. The proponent pays administrative and Temporary Duty (TDY) costs. The hearing officer presides at hearings and makes final decisions regarding hearing procedures.

(4) Promptly refers all matters causing or likely to cause substantial public controversy or litigation through channels to AFLSA/JACE (or NGB-JA).

(h) Public Affairs Officer. This officer:

(1) Advises the EPF, the EPC, and the proponent on public affairs activities on proposed actions and reviews environmental documents for public involvement issues;

(2) Advises the EPF of issues and competing interests that should be addressed in the EIS or EA.

(3) Assists in preparation of and attends public meetings or media sessions on environmental issues.

(4) Prepares, coordinates, and distributes news releases and other public information materials related to the proposal and associated EIAP documents.

(5) Notifies the media (television, radio, newspaper) and purchases advertisements when newspapers will not run notices free of charge. The EPF will fund the required advertisements.

(6) Determines and ensures Security Review requirements are met for all information proposed for public release.

(7) For more comprehensive instructions about public affairs activities in environmental matters, see AFI 35–202.[9]

(i) Medical Service. The Medical Service, represented by the Bioenvironmental Engineer, provides technical assistance to EPF's in the areas of environmental health standards, environmental effects, and environmental monitoring capabilities. The Air Force Armstrong Laboratory, Occupational and Environmental Health Directorate, provides additional technical support.

(j) Safety Office. The Safety Office provides technical review and assistance to EPFs to ensure consideration of safety standards and requirements.

§ 989.4 Initial considerations.

Air Force personnel will:

(a) Consider and document environmental effects on proposed Air Force actions through AF Forms 813, EAs, FONSIs, EISs, EIS (RODs), and documents prepared according to E.O. 12114.

(b) Evaluate proposed actions for possible CATEX from environmental impact analysis (attachment 2).

(c) Make environmental documents, comments, and responses, including those of other federal agencies, state, Tribal, and local governments, and the public, part of the record available for review and use at all levels of decision making.

(d) Review the specific alternatives analyzed in the EIAP when evaluating the proposal prior to decision making.

(e) Ensure that alternatives to be considered by the decision-maker are both reasonable and within the range of alternatives analyzed in the environmental documents.

(f) Pursue the objective of furthering foreign policy and national security interests while at the same time considering important environmental factors.

(g) Consider the environmental effects of actions that affect the global commons.

(h) Determine whether any foreign government should be informed of the availability of environmental documents. Formal arrangements with foreign governments concerning environmental matters and communications with foreign governments concerning environmental agreements will be coordinated with the Department of State by the Deputy Assistant Secretary of the Air Force for Environment, Safety, and Occupational Health (SAF/MIQ) through the Assistant Secretary of Defense. This coordination requirement does not apply to informal working-level communications and arrangements.

§ 989.5 Organizational relationships.

The host EPF manages the EIAP using an interdisciplinary team approach. This is especially important for tenant-proposed actions, because the host command is responsible for the EIAP for actions related to the host command's installations.

(a) The host command prepares environmental documents internally or directs the host base to prepare the environmental documents. Environmental document preparation may be by contract (requiring the tenant to fund the EIAP), by the tenant unit, or by the host. Regardless of the preparation method, the host command will ensure the required environmental analysis is accomplished before a decision is made on the proposal and an action is undertaken. Support

[7] See footnote 1 to § 989.1.

[8] See footnote 1 to § 989.1.

[9] See footnote 1 to § 989.1.

agreements should provide specific procedures to ensure host oversight of tenant compliance, tenant funding or reimbursement of host EIAP costs, and tenant compliance with the EIAP regardless of the tenant not being an Air Force organization.

(b) For aircraft beddown and unit realignment actions, program elements are identified in the Program Objective Memorandum. Subsequent Programs Change Requests must include AF Form 813.

(c) To ensure timely initiation of the EIAP, SAF/AQ forwards information copies of all Mission Need Statements and System Operational Requirements Documents to SAF/MIQ, HQ USAF/ILEV (or ANGRC/CEV), the Air Force Medical Operations Agency, Aerospace Medicine Office (AFMOA/SG), and the affected MAJCOM EPFs.

(d) The MAJCOM of the scheduling unit managing affected airspace is responsible for preparing and approving environmental analyses.

§ 989.6 Budgeting and funding.

Contract EIAP efforts are proponent MAJCOM responsibilities. Each year, the EPF programs for anticipated out-year EIAP workloads based on inputs from command proponents. If proponent offices exceed the budget in a given year or identify unforeseen requirements, the proponent offices must provide the remaining funding.

§ 989.7 Requests from Non-Air Force agencies or entities.

Non-Air Force agencies or entities may request the Air Force to undertake an action, such as issuing a permit or outleasing Air Force property, that may primarily benefit the requester or an agency other than the Air Force. The EPF and other Air Force staff elements must identify such requests and coordinate with the proponent of the non-Air Force proposal, as well as with concerned state, Tribal, and local governments.

(a) Air Force decisions on such proposals must take into consideration the potential environmental impacts of the applicant's proposed activity (as described in an Air Force environmental document), insofar as the proposed action involves Air Force property or programs, or requires Air Force approval.

(b) The Air Force may require the requester to prepare, at the requester's expense, an analysis of environmental impacts (40 CFR 1506.5), or the requester may be required to pay for an EA or EIS to be prepared by a contractor selected and supervised by the Air Force. The EPF may permit requesters to submit draft EAs for their proposed actions, except for actions described in § 989.16(a) and (b), or for actions the EPF has reason to believe will ultimately require an EIS. For EISs the EPF has the responsibility to prepare the environmental document, although responsibility for funding remains with the requester. The fact that the requester has prepared environmental documents at its own expense does not commit the Air Force to allow or undertake the proposed action or its alternatives. The requester is not entitled to any preference over other potential parties with whom the Air Force might contract or make similar arrangements.

(c) In no event is the requester who prepares or funds an environmental analysis entitled to reimbursement from the Air Force. When requesters prepare environmental documents outside the Air Force, the Air Force must independently evaluate and approve the scope and content of the environmental analyses before using the analyses to fulfill EIAP requirements. Any outside environmental analysis must evaluate reasonable alternatives as defined in § 989.8.

§ 989.8 Analysis of alternatives.

The Air Force must analyze reasonable alternatives to the proposed action and the ''no action'' alternative in all EAs and EISs, as fully as the proposed action alternative.

(a) ''Reasonable'' alternatives are those that meet the underlying purpose and need for the proposed action and that would cause a reasonable person to inquire further before choosing a particular course of action. Reasonable alternatives are not limited to those directly within the power of the Air Force to implement. They may involve another government agency or military service to assist in the project or even to become the lead agency. The Air Force must also consider reasonable alternatives raised during the scoping process (see § 989.18) or suggested by others, as well as combinations of alternatives. The Air Force need not analyze highly speculative alternatives, such as those requiring a major, unlikely change in law or governmental policy. If the Air Force identifies a large number of reasonable alternatives, it may limit alternatives selected for detailed environmental analysis to a reasonable range or to a reasonable number of examples covering the full spectrum of alternatives.

(b) The Air Force may expressly eliminate alternatives from detailed analysis, based on reasonable selection standards (for example, operational, technical, or environmental standards suitable to a particular project). In consultation with the EPF, proponents may develop written selection standards to firmly establish what is a ''reasonable'' alternative for a particular project, but they must not so narrowly define these standards that they unnecessarily limit consideration to the proposal initially favored by proponents. This discussion of reasonable alternatives applies equally to EAs and EISs.

(c) Except in those rare instances where excused by law, the Air Force must always consider and assess the environmental impacts of the ''no action'' alternative. ''No action'' may mean either that current management practice will not change or that the proposed action will not take place. If no action would result in other predictable actions, those actions should be discussed within the no action alternative section. The discussion of the no action alternative and the alternatives should be comparable in detail to that of the proposed action.

§ 989.9 Cooperation and adoption.

(a) Lead and Cooperating Agency (40 CFR 1501.5–1501.6). When the Air Force is a cooperating agency in the preparation of an EIS, the Air Force reviews and approves principal environmental documents within the EIAP as if they were prepared by the Air Force. The Air Force executes a ROD for its program decisions that are based on an EIS for which the Air Force is a cooperating agency. The Air Force may also be a lead or cooperating agency on an EA using similar procedures, but the MAJCOM EPC retains approval authority unless otherwise directed by HQ USAF. Before invoking provisions of 40 CFR 1501.5(e), the lowest authority level possible resolves disputes concerning which agency is the lead or cooperating agency.

(b) Adoption of EA or EIS. The Air Force, even though not a cooperating agency, may adopt an EA or EIS prepared by another entity where the proposed action is substantially the same as the action described in the EA or EIS. In this case, the EA or EIS must be recirculated as a final EA or EIS but the Air Force must independently review the EA or EIS and determine that it is current and that it satisfies the requirements of this part. The Air Force then prepares its own FONSI or ROD, as the case may be. In the situation where the proposed action is not substantially the same as that described in the EA or the EIS, the Air Force may adopt the EA or EIS, or a portion thereof, by

circulating the EA or EIS as a draft and then preparing the final EA or EIS.

§ 989.10 Tiering.

The Air Force should use tiered (40 CFR 1502.20) environmental documents, and environmental documents prepared by other agencies, to eliminate repetitive discussions of the same issues and to focus on the issues relating to specific actions. If the Air Force adopts another Federal agency's environmental document, subsequent Air Force environmental documents may also be tiered.

§ 989.11 Combining EIAP with other documentation.

(a) The EPF combines environmental analysis with other related documentation when practicable (40 CFR 1506.4) following the procedures prescribed by the CEQ regulations and this part.

(b) The EPF must integrate comprehensive planning (AFI 32–7062, Air Force Comprehensive Planning [10]) with the requirements of the EIAP. Prior to making a decision to proceed, the EPF must analyze the environmental impacts that could result from implementation of a proposal identified in the comprehensive plan.

§ 989.12 Air Form 813, Request for Environmental Impact Analysis.

The Air Force uses AF Form 813 to document the need for environmental analysis or for certain CATEX determinations for proposed actions. The form helps narrow and focus the issues to potential environmental impacts. AF Form 813 must be retained with the EA or EIS to record the focusing of environmental issues. The rationale for not addressing environmental issues must also be recorded in the EA or EIS.

§ 989.13 Categorical exclusion.

(a) CATEXs define those categories of actions that do not individually or cumulatively have potential for significant effect on the environment and do not, therefore, require further environmental analysis in an EA or an EIS. The list of Air Force-approved CATEXs is in attachment 2. Supplements to this part may not add CATEXs or expand the scope of the CATEXs in attachment 2.

(b) Characteristics of categories of actions that usually do not require either an EIS or an EA (in the absence of extraordinary circumstances) include:

(1) Minimal adverse effect on environmental quality.

(2) No significant change to existing environmental conditions.

(3) No significant cumulative environmental impact.

(4) Socioeconomic effects only.

(5) Similarity to actions previously assessed and found to have no significant environmental impacts.

(c) CATEXs apply to actions in the United States and abroad. General exemptions specific to actions abroad are in 32 CFR part 187. The EPF or other decision-maker forwards requests for additional exemption determinations for actions abroad to HQ USAF/ILEV with a justification letter.

(d) Normally, any decision-making level may determine the applicability of a CATEX and need not formally record the determination on AF Form 813 or elsewhere, except as noted in the CATEX list.

(e) Application of a CATEX to an action does not eliminate the need to meet air conformity requirements (see § 989.28).

§ 989.14 Environmental assessment.

(a) When a proposed action is one not usually requiring an EIS but is not categorically excluded, the EPF supports the proponent in preparing an EA (40 CFR 1508.9). Every EA must lead to either a FONSI, a decision to prepare an EIS, or no decision on the proposal.

(b) Whenever a proposed action usually requires an EIS, the EPF responsible for the EIAP may prepare an EA to definitively determine if an EIS is required based on the analysis of environmental impacts. Alternatively, the EPF may choose to bypass the EA and proceed with preparation of an EIS.

(c) An EA is a written analysis that:

(1) Provides analysis sufficient to determine whether to prepare an EIS or a FONSI.

(2) Aids the Air Force in complying with the NEPA when no EIS is required.

(d) The length of an EA should be as short and concise as possible, while matching the magnitude of the proposal. An EA briefly discusses the need for the proposed action, reasonable alternatives to the proposed action, the affected environment, the environmental impacts of the proposed action and alternatives (including the ''no action'' alternative), and a listing of agencies and persons consulted during preparation. The EA should not contain long descriptions or lengthy, detailed data. Rather, incorporate by reference background data to support the concise discussion of the proposal and relevant issues.

(e) The format for the EA may be the same as the EIS. The alternatives section of an EA and an EIS are similar and should follow the alternatives analysis guidance outlined in § 989.8.

(f) The EPF should design the EA to facilitate rapidly transforming the document into an EIS if the environmental analysis reveals a significant impact.

(g) EAs for actions where the Air Force has wetlands or floodplains compliance responsibilities (E.O. 11988 and E.O. 11990) require SAF/MIQ approval. As a finding contained in the draft FONSI, a Finding of No Practicable Alternative (FONPA) must be submitted (five hard copies and an electronic version) through the MAJCOM EPF to HQ USAF/ILEVP when the alternative selected is located in wetlands or floodplains, and must discuss why no other practicable alternative exists to avoid impacts. See AFI 32–7064, *Integrated Natural Resources Management* [11].

(h) EAs and accompanying FONSIs that require the Air Force to make Clean Air Act General Conformity Determinations shall be submitted (five hard copies and an electronic version) through the MAJCOM EPF to HQ USAF/ILEVP for SAF/MIQ approval. SAF/MIQ signs all General Conformity Determinations and will also sign the companion FONSIs, when requested by the MAJCOM (see § 989.30).

(i) In cases potentially involving a high degree of controversy or Air force-wide concern, the MAJCOM, after consultation with HQ USAF/ILEVP, may request HQ USAF ESOHC review and approval of an EA, or HQ USAF may direct the MAJCOM to forward an EA (five hard copies and an electronic version) for HQ USAF ESOHC review and approval.

(j) As a minimum, the following EAs require MAJCOM approval because they involve topics of special importance or interest. Unless directed otherwise by HQ USAF/ILEVP, the installation EPF must forward the following types of EAs to the MAJCOM EPF, along with an unsigned draft FONSI: (MAJCOMs can require other EAs receive MAJCOM approval in addition to those types specified here.)

(1) All EAs on non-Air Force proposals that require an Air Force decision, such as use of Air Force property for highways, space ports and joint-use proposals.

(2) EAs where mitigation to insignificance is accomplished in lieu of initiating an EIS (§ 989.22(c)).

(k) A few examples of actions that normally require preparation of an EA (except as indicated in the CATEX list) include:

[10] See footnote 1 to § 989.1.

[11] See footnote 1 to § 989.1

(1) Public land withdrawals of less than 5,000 acres.

(2) Minor mission realignments and aircraft beddowns.

(3) New building construction on base within developed areas.

(4) Minor modifications to Military Operating Areas (MOAs), air-to-ground weapons ranges, and military training routes.

(l) The Air Force proponent will involve other federal agencies, state, Tribal, and local governments, and the public in the preparation of EAs (40 CFR 1501.4(b) and 1506.6). The extent of involvement usually coincides with the magnitude and complexity of the proposed action and its potential environmental effect on the area. For proposed actions described in § 989.15(e)(2), use either the scoping process described in § 989.18 or the public notice process in § 989.24.

§ 989.15 Finding of no significant impact.

(a) The FONSI (40 CFR § 1508.13) briefly describes why an action would not have a significant effect on the environment and thus will not be the subject of an EIS. The FONSI must summarize the EA or, preferably, have it attached and incorporated by reference, and must note any other environmental documents related to the action.

(b) If the EA is not incorporated by reference, the FONSI must include:

(1) Name of the action.

(2) Brief description of the action (including alternatives considered and the chosen alternative).

(3) Brief discussion of anticipated environmental effects.

(4) Conclusions leading to the FONSI.

(5) All mitigation actions that will be adopted with implementation of the proposal (see § 989.22).

(c) Keep FONSIs as brief as possible. Only rarely should FONSIs exceed two typewritten pages. Stand-alone FONSIs without an attached EA may be longer.

(d) For actions of regional or local interest, disseminate the FONSI according to § 989.23. The MAJCOM and NGB are responsible for release of FONSIs to regional offices of Federal agencies, the state single point of contact (SPOC), and state agencies concurrent with local release by the installations.

(e) The EPF must make the EA and unsigned FONSI available to the affected public and provide the EA and unsigned FONSI to organizations and individuals requesting them and to whomever the proponent or the EPF has reason to believe is interested in the action, unless disclosure is precluded for security classification reasons. Draft EAs and unsigned draft FONSIs will be clearly identified as drafts and distributed via cover letter which will explain their purpose and need. The EPF provides a copy of the documents without cost to organizations and individuals requesting them. the FONSI transmittal date (date of letter of transmittal) to the state SPOC or other equivalent agency is the official notification date.

(1) Before the FONSI is signed and the action is implemented, the EPF should allow sufficient time to receive comments from the public. The time period will reflect the magnitude of the proposed action and its potential for controversy. The greater the magnitude of the proposed action or its potential for controversy, the longer the time that must be allowed for public review. Mandatory review periods for certain defined actions are contained in § 989.15(e)(2). These are not all inclusive but merely specific examples. In every case where an EA and FONSI are prepared, the proponent and EPF must determine how much time will be allowed for public review. In all cases, other than classified actions, a public review period should be the norm unless clearly unnecessary due to the lack of potential controversy.

(2) In the following circumstances, the EA and unsigned FONSI are made available for public review for at least 30 days before FONSI approval and implementing the action (40 CFR 1501.4(e)(2)):

(i) When the proposed action is, or is closely similar to, one that usually requires preparation of an EIS (see § 989.16).

(ii) If it is an unusual case, a new kind of action, or a precedent-setting case in terms of its potential environmental impacts.

(iii) If the proposed action would be located in a floodplain or wetland.

(iv) If the action is mitigated to insignificance in the FONSI, in lieu of an EIS § 989.22(c)).

(v) If the proposed action is a change to airspace use of designation.

(vi) If the proposed action would have a disproportionately high and adverse environmental effect on minority and low-income populations.

(f) As a general rule, the same organizational level that prepares the EA also reviews and recommends the FONSI for approval by the EPC. MAJCOMs may decide the level of EA approval and FONSI signature, except as provided in § 989.14(g).

§ 989.16 Environmental impact statement.

(a) Certain classes of environmental impacts normally require preparation of an EIS (40 CFR part 1501.4). These include, but are not limited to:

(1) Potential for significant degradation of the environment.

(2) Potential for significant threat or hazard to public health or safety.

(3) Substantial environmental controversy concerning the significance or nature of the environmental impact of a proposed action.

(b) Certain other action normally, but not always, require and EIS. These include, but are not limited to:

(1) Public land withdrawals of over 5,000 acres (Engle Act, 43 U.S.C. 155–158).

(2) Establishment of new air-to-ground weapons ranges.

(3) Site selection of new airfields.

(4) Site selection of major installations.

(5) Development of major new weapons systems (at decision points that involve demonstration, validation, production, deployment, and area or site selection for deployment).

(6) Establishing or expanding supersonic training areas overland below 30,000 feet MSL (mean sea level).

(7) Disposal and reuse of closing installations.

§ 989.17 Notice of intent.

The EPF must furnish, through the MAJCOM, to HQ USAF/ILEV the NOI (40 CFR 1508.22) describing the proposed action for congressional notification and publication in the **Federal Register.** The EPF, through the host base public affairs office, will also provide the approved NOI to newspapers and other media in the area potentially affected by the proposed action. The EPF must provide copies of the notice to the SPOC and must also distribute it to requesting agencies, organizations, and individuals. Along with the draft NOI, the EPF must also forward the completed DOPPA, through the MAJCOM, to HQ USAF for information.

§ 989.18 Scoping.

(a) After publication of the NOI for an EIS, the EPF must initiate the public scoping process (40 CFR 1501.7) to determine the scope of issues to be addressed and to help identify significant environmental issues to be analyzed in depth. Methods of scoping range from soliciting written comments

to conducting pubic scoping meetings (see 40 CFR 1501.7 and 1506.6(e)). The scoping process is an iterative, pro-active process of communicating with individual citizens, neighborhood, community, and local leaders, public interest groups, congressional delegations, state, Tribal, and local governments, and federal agencies. The scoping process must start prior to official public scoping meetings and continue through to preparation of the draft EIS. The purpose of this process is to de-emphasize insignificant issues and focus the scope of the environmental analysis on significant issues (40 CFR 1500.4(g)). Additionally, scoping allows early and more meaningful participation by the public. The result of scoping is that the proponent and EPF determine the range of actions, alternatives, and impacts to be considered in the EIS (40 CFR 1508.125). The EPF must send plans for scoping meetings to AF/ILEV (or ANGRC/CEV) for SAF/MIQ concurrence no later than 30 days before the first scoping meeting. Scoping meeting plans are similar in content to public hearing plans (see attachment 3). Public scoping meetings should generally be held at locations not on the installation.

(b) Where it is anticipated the proposed action and its alternatives will affect minority and low-income populations, special efforts shall be made to reach these populations. This might include special informational meetings or notices in minority and low-income areas concerning the regular scoping process.

§ 989.19 Draft EIS.

(a) Preliminary draft. The EPF supports the proponent in preparation of a Preliminary draft EIS (PDEIS) (40 CFR 1502.9) based on the scope of issues decided on during the scoping process. The format of the EIS must be in accordance with the format recommended in the CEQ regulations (40 CFR 1502.10 and 1502.11). The CEQ regulations indicate that EISs normally contain fewer than 150 pages (300 pages for proposals of unusual complexity). The EPF provides a sufficient number of copies of the PDEIS to HQ USAF/ILEV for HQ USAF ESOHC security and policy review in each member's area of responsibility and to AFCEE/EC for technical review.

(b) Review of draft EIS. After the HQ USAF ESOHC review, the EPF assists the proponent in making any necessary revisions to the PDEIS and forwards it to HQ USAF/ILEV as a draft EIS to ensure completion of all security and policy reviews and to certify releasability. Once the draft EIS is approved, HQ USAF/ILEV notifies the EPF to print sufficient copies of the draft EIS for distribution to congressional delegations and interested agencies at least seven calendar days prior to publication of the Notice of Availability (NOA) in the Federal Register. After congressional distribution, the EPF sends the draft EIS to all others on the distribution list. HQ USAF/ILEV then files the document with the U.S. Environmental Protection Agency (USEPA) and provides a copy to the Deputy Under Secretary of Defense for Environmental Security.

(c) Public review of draft EIS (40 CFR 1502.19 and 1506.6):

(1) The public comment period for the draft EIS is at least 45 days starting from the publication date of the NOA of the draft EIS in the **Federal Register**. USEPA publishes in the **Federal Register** NOAs of EISs filed during the preceding week. This public comment period may be extended by the EPF. If the draft EIS is unusually long, the EPF may distribute a summary to the public with an attached list of locations (such as public libraries) where the entire draft EIS may be reviewed. The EPF must distribute the full draft EIS to certain entities, for example agencies with jurisdiction by law or agencies with special expertise in evaluating the environmental impacts, and anyone else requesting the entire draft EIS (40 CFR 1502.19 and 1506.6).

(2) The EPF sponsors public hearings on the draft EIS according to the procedures in attachment 3. Hearings take place no sooner than 15 days after the **Federal Register** publication of the NOA and at least 15 days before the end of the comment period. Scheduling hearings toward the end of the comment period is encouraged to allow the public to obtain and more thoroughly review the draft EIS. The EPF must provide hearing plans to HQ USAF/ILEV (or ANGRC/CEV) for SAF/MIQ concurrence no later than 30 days prior to the first public hearing. Public hearings should generally be held at off-base locations. Submit requests to deviate from procedures in attachment 3 to HQ USAF/ILEVP for SAF/MIQ approval.

(3) Where analyses indicate that a proposed action will potentially have a disproportionate impact on minority or low-income populations, the EPF should make special efforts to ensure that these potentially impacted populations are brought into the review process.

(d) Response to comments (40 CFR 1503.4). The EPF must incorporate in the Final EIS its responses to comments on the Draft EIS by modifying the text and referring in the appendix to where the comment is addressed or providing a written explanation in the comments section, or both. The EPF may group comments of a similar nature together to allow a common response and may also respond to individuals separately.

(e) Seeking additional comments. The EPF may, at any time during the EIS process, seek additional public comments, such as when there has been a significant change in circumstances, development of significant new information of a relevant nature, or where there is substantial environmental controversy concerning the proposed action. Significant new information leading to public controversy regarding the scope after the scoping process is such a changed circumstance. An additional public comment period may also be necessary after the publication of the draft EIS due to public controversy or changes made as the result of previous public comments. Such periods when additional public comments are sought shall last for at least 30 days.

§ 989.20 Final EIS.

(a) If changes in the draft EIS are minor or limited to factual corrections and responses to comments, the proponent and EPF may, with the prior approval of SAF/MIQ, prepare a document containing only comments on the Draft EIS, Air Force responses, and errata sheets of changes staffed to the HQ USAF ESOHC for coordination. However, the EPF must submit the draft EIS and all of the above documents, with a new cover sheet indicating that it is a final EIS (40 CFR 1503.4(c)), to HQ USAF/ILEV for filing with the EPA (40 CFR 1506.9). If more extensive modifications are required, the EPF must prepare a preliminary final EIS incorporating these modifications for coordination within the Air Force. Regardless of which procedure is followed, the final EIS must be processed in the same way as the draft EIS, including receipt of copies of the EIS by SAF/LLP, except that the public need not be invited to comment during the 30-day post-filing waiting period. The Final EIS should be furnished to every person, organization, or agency that made substantive comments on the Draft EIS or requested a copy. Although the EPF is not required to respond to public comments received during this period, comments received must be considered in determining final decisions such as identifying the preferred alternative, appropriate mitigations, or if a supplemental analysis is required.

(b) The EPF processes all necessary supplements to EISs (40 CFR 1502.9) in

the same way as the original Draft and Final EIS, except that a new scoping process is not required.

(c) If major steps to advance the proposal have not occurred within 5 years from the date of the Final EIS approval, reevaluation of the documentation should be accomplished to ensure its continued validity.

§ 989.21 Record of decision (ROD).

(a) The proponent and the EPF prepare a draft ROD, formally staff it through the MAJCOM EPC, to HQ USAF/ILEV for verification of adequacy, and forwards it to the final decision-maker for signature. A ROD (40 CFR 1505.2) is a concise public document stating what an agency's decision is on a specific action. The ROD may be integrated into any other document required to implement the agency's decision. A decision on a course of action may not be made until 30 days after publication of the NOA of the final EIS in the **Federal Register**.

(b) The Air Force must announce the ROD to the affected public as specified in § 989.23, except for classified portions. The ROD should be concise and should explain the conclusion, the reason for the selection, and the alternatives considered. The ROD must identify the course of action, whether it is the proposed action or an alternative, that is considered environmentally preferable regardless of whether it is the alternative selected for implementation. The ROD should summarize all the major factors the agency weighed in making its decision, including essential considerations of national policy.

(c) The ROD must state whether the selected alternative employs all practicable means to avoid, minimize, or mitigate environmental impacts and, if not, explain why.

§ 989.22 Mitigation.

(a) When preparing EIAP documents, indicate clearly whether mitigation measures (40 CFR 1508.20) must be implemented for the alternative selected. Discuss mitigation measures in terms of ''will'' and ''would'' when such measures have already been incorporated into the proposal. Use terms like ''may'' and ''could'' when proposing or suggesting mitigation measures. Both the public and the Air Force community need to know what commitments are being considered and selected, and who will be responsible for implementing, funding, and monitoring the mitigation measures.

(b) The proponent funds and implements mitigation measures in the mitigation plan that is approved by the decision-maker. Where possible and appropriate because of amount, the proponent should include the cost of mitigation as a line item in the budget for a proposed project. The proponent must keep the EPF informed of the status of mitigation measures when the proponent implements the action. The EPF monitors the progress of mitigation implementation and reports its status, through the MAJCOM, to HQ USAF/ILEV when requested. Upon request, the EPF must also provide the results of relevant mitigation monitoring to the public.

(c) The proponent may ''mitigate to insignificance'' potentially significant environmental impacts found during preparation of an EA, in lieu of preparing an EIS. The FONSI for the EA must include these mitigation measures. Such mitigations are legally binding and must be carried out as the proponent implements the project. If, for any reason, the project proponent later abandons or revises in environmentally-adverse ways the mitigation commitments made in the FONSI, the proponent must prepare a supplemental EIAP document before continuing the project. If potentially significant environmental impacts would result from any project revisions, the proponent must prepare an EIS.

(d) For each FONSI or ROD containing mitigation measures, the proponent prepares a plan specifically identifying each mitigation, discussing how the proponent will execute the mitigations, identifying who will fund and implement the mitigations, and stating when the proponent will complete the mitigation. The mitigation plan will be forwarded, through the MAJCOM EPF to HQ USAF/ILEV for review within 90 days from the date of signature of the FONSI or ROD.

§ 989.23 Contractor prepared documents.

All Air Force EIAP documents belong to and are the responsibility of the Air Force. EIAP correspondence and documents distributed outside of the Air Force should generally be signed out by Air Force personnel and documents should reflect on the cover sheet they are an Air Force document. Contractor preparation information should be contained within the document's list of preparers.

§ 989.24 Public notification.

Except as provided in § 989.26, public notification is required for various aspects of the EIAP.

(a) Activities that require public notification include:

(1) An EA and FONSI.

(2) An EIS NOI.

(3) Public scoping meetings.

(4) Availability of the draft EIS.

(5) Public hearings on the draft EIS (which should be included in the NOA for the draft EIS).

(6) Availability of the final EIS.

(7) The ROD for an EIS.

(b) For actions of local concern, the list of possible notification methods in 40 CFR 1506.6(b)(3) is only illustrative. The EPF may use other equally effective means of notification as a substitute for any of the methods listed. Because many Air Force actions are of limited interest to persons or organizations outside the Air Force, the EPF may limit local notification to the SPOC, local government representatives, and local news media. For all actions covered under § 989.15(e)(2), and for EIS notices, the public affairs office must purchase with EPF funds an advertisement in a prominent section of the local newspaper(s) of general circulation (not ''legal'' newspapers or ''legal section'' of general newspapers).

(c) For the purpose of EIAP, the EPF begins the time period of local notification when it sends written notification to the state SPOC or other equivalent agency (date of letter of notification).

§ 989.25 Base closure and realignment.

Base closure or realignment may entail special requirements for environmental analysis. The permanent base closure and realignment law, 10 U.S.C. 2687, requires a report to the Congress when an installation where at least 300 DoD civilian personnel are authorized to be employed is closed, or when a realignment reduces such an installation by at least 50 percent or 1,000 of such personnel, whichever is less. In addition, other base closure laws may be in effect during particular periods. Such non-permanent closure laws frequently contain provisions limiting the extent of environmental analysis required for actions taken under them. Such provisions may also add requirements for studies not necessarily required by NEPA.

§ 989.26 Classified actions (40 CFR 1507.3(c)).

(a) Classification of an action for national defense or foreign policy purposes does not relieve the requirement of complying with NEPA. In classified matters, the Air Force must prepare and make available normal NEPA environmental analysis documents to aid in the decision making process; however, Air Force staff must prepare, safeguard and disseminate these documents according to established procedures for protecting classified documents. IF an EIAP

document must be classified, the Air Force may modify or eliminate associated requirements for public notice (including publication in the **Federal Register**) or public involvement in the EIAP. However, the Air Force should obtain comments on classified proposed actions or classified aspects of generally unclassified actions, from public agencies having jurisdiction by law or special expertise, to the extent that such review and comment is consistent with security requirements. Where feasible, the EPF may need to help appropriate personnel from those agencies obtain necessary security clearances to gain access to documents so they can comment on scoping or review the documents.

(b) Where the proposed action is classified and unavailable to the public, the Air Force may keep the entire NEPA process classified and protected under the applicable procedures for the classification level pertinent to the particular information. At times (for example, during weapons system development and base closures and realignments), certain but not all aspects of NEPA documents may later be declassified. In those cases, the EPF should organize the EIAP documents, to the extent practicable, in a way that keeps the most sensitive classified information (which is not expected to be released at any early date) in a separate annex that can remain classified; the rest of the EIAP documents, when declassified, will then be comprehensible as a unit and suitable for release to the public. Thus, the documents will reflect, as much as possible, the nature of the action and its environmental impacts, as well as Air Force compliance with NEPA requirements.

(c) Where the proposed action is not classified, but certain aspects of it need to be protected by security classification, the EPF should tailor the EIAP for a proposed action to permit as normal a level of public involvement as possible, but also fully protect the classified part of the action and environmental analysis. In some instances, the EPF can do this by keeping the classified sections of the EIAP documents in a separate, classified annex.

(d) For § 989.26(b) actions, and NOI or NOA will not be published in the **Federal Register** until the proposed action is declassified. For § 989.26(c) actions, the **Federal Register** will run an unclassified NOA which will advise the public that at some time in the future the Air Force may or will publicly release a declassified document.

(e) The EPF similarly protects classified aspects of FONSIs, RODs, or other environmental documents that are part of the EIAP for a proposed action, such as by preparing separate classified annexes to unclassified documents, as necessary.

(f) Whenever a proponent believes that EIAP documents should be kept classified, the EPF must make a report of the matter to SAF/MIQ, including proposed modifications of the normal EIAP to protect classified information. The EPF may make such submissions at whatever level of security classification is needed to provide a comprehensive understanding of the issues. SAF/MIQ, with support from SAF/GC and other staff elements as necessary, makes final decisions on EIAP procedures for classified actions.

§ 989.27 Occupational safety and health.

Assess direct and indirect impacts of proposed actions on the safety and health of Air Force employees and others at a work site. The EIAP document does not need to specify compliance procedures. However, the EIAP documents should discuss impacts that require a change in work practices to achieve an adequate level of health and safety.

§ 989.28 Airspace and range proposals.

(a) EIAP Review. Airspace and range proposals require review by HQ USAF/XOO prior to public announcement and implementation by a proponent. Unless directed otherwise, the airspace proponent will forward the DOPAA as an attachment to the proposal sent to HQ USAF/XOO. EAs and EISs prepared as part of airspace and range proposals will be forwarded to HQ USAF/XOO for review at the preliminary draft and preliminary final stages. AF/XOO will be responsible for appropriate HQ USAF ESOHC review.

(b) Federal Aviation Administration. The DoD and the Federal Aviation Administration (FAA) have entered into a Memorandum of Understanding (MOU) that outlines various airspace responsibilities. For purposes of compliance with NEPA, the DoD is the ''lead agency'' for all proposals initiated by DoD, with the FAA acting as the ''cooperating agency.'' Where airspace proposals initiated by the FAA affect military use, the roles are reversed. The proponent's action officers (civil engineering and local airspace management) must ensure that the FAA is fully integrated into the airspace proposals and related EIAP from the very beginning and that the action officers review the FAA's responsibilities as a cooperating agency. The proponent's airspace manager develops the preliminary airspace proposal per appropriate FAA handbooks and the FAA–DoD MOU. The preliminary airspace proposal is the basis for initial dialogue between DoD and the FAA on the proposed action. A close working relationship between DoD and the FAA, through the FAA regional Air Force representative, greatly facilitates the airspace proposal process and helps resolve many NEPA issues during the EIAP.

§ 989.29 Force structure and unit move proposals.

Unless directed otherwise, the MAJCOM plans and programs proponent will forward a copy of all EAs for force structure and unit moves to HQ USAF/ILXB for information only at the preliminary draft and preliminary final stages.

§ 989.30 Air quality.

Section 176(c) of the Clean Air Act Amendments of 1990, 42 U.S.C. 7506(c), establishes a conformity requirement for Federal agencies which has been implemented by regulation, 40 CFR part 93, subpart B. All EIAP documents must address applicable conformity requirements and the status of compliance. Conformity applicability analyses and determinations are developed in parallel with EIAP documents, but are separate and distinct requirements and should be documented separately. To increase the utility of a conformity determination in performing the EIAP, the conformity determination should be completed prior to the completion of the EIAP so as to allow incorporation of the information from the conformity determination into the EIAP. See AFI 32–7040, Air Quality Compliance.[12]

§ 989.31 Pollution prevention.

The Pollution Prevention Act of 1990, 42 U.S.C. 13101(b), established a national policy to prevent or reduce pollution at the source, whenever feasible. Pollution prevention approaches should be applied to all pollution-generating activities. The environmental document should analyze potential pollution that may result from the proposed action and alternatives and must discuss potential pollution prevention measures when such measures are feasible for incorporation into the proposal or alternatives. Where pollution cannot be prevented, the environmental analysis and proposed mitigation measures should include, wherever possible,

[12] See footnote 1 to § 989.1.

recycling, energy recovery, treatment, and environmentally safe disposal actions (see AFI 32–7080, Pollution Prevention Program [13]).

§ 989.32 Noise.

Aircraft noise data files used for analysis during EIAP will be submitted to HQ AFCEE for review and validation prior to public release, and upon completion of the EIAP for database entry. Utilize the current NOISEMAP computer program for air installations and the Assessment System for Aircraft Noise for military training routes and military operating areas. Guidance on standardized Air Force noise data development and analysis procedures is available from HQ AFCEE/EC. Develop EIAP land use analysis relating to aircraft noise impacts originating from air installations following procedures in AFI 32–70653, Air Installation Compatible Use Zone.[14] Draft EIAP aircraft noise/land use analysis associated with air installations will be coordinated with the MAJCOM AICUZ program manager.

§ 989.33 Environmental justice.

During the preparation of environmental analyses under this instruction, the EPF should ensure compliance with the provisions of E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and Executive Memorandum of February 11, 1994, regarding E.O. 12898.

§ 989.34 Special and emergency procedures.

(a) Special procedures. During the EIAP, unique situations may arise that require EIAP strategies different than those set forth in this part. These situations may warrant modification of the procedures in this part. EPFs should only consider procedural deviations when the resulting process would benefit the Air Force and still comply with NEPA and CEQ regulations. EPFs must forward all requests for procedural deviations to HQ USAF/ILEV (or ANGRC/CEV) for review and approval by SAF/MIQ.

(b) Emergency procedures (40 CFR 1506.11). Emergency situations do not exempt the Air Force from complying with NEPA, but do allow emergency response while completing the EIAP. Certain emergency situations may make it necessary to take immediate action having significant environmental impact, without observing all the provisions of the CEQ regulations or this part. If possible, promptly notify HQ USAF/ILEV, for SAF/MIQ coordination and CEQ consultation, before undertaking emergency actions that would otherwise not comply with NEPA or this part. The immediate notification requirement does not apply where emergency action must be taken without delay. Coordination in this instance must take place as soon as practicable.

§ 989.35 Reporting requirements.

(a) EAs, EISs, and mitigation measures will be tracked at bases and MAJCOMs through an appropriate environmental management system.

(b) Proponents, EPFs, and public affairs offices may utilize the world wide web, in addition to more traditional means, to notify the public of availability of EAs and EISs. When possible, allow distribution of documents electronically. Public review comments should be required in writing, rather than by electronic mail.

(c) All documentation will be disposed of according to AFMAN 37–139, Records Disposition—Standards.[15]

§ 989.36 Waivers.

In order to deal with unusual circumstances and to allow growth in the NEPA process, SAF/MIQ may grant waivers to those procedures contained in this instruction not required by NEPA or the CEQ Regulations. Such waivers shall not be used to limit compliance with NEPA or the CEQ Regulations but only to substitute other, more suitable procedures relative to the context of the particular action. Such waivers may also be granted on occasion to allow experimentation in procedures in order to allow growth in the EIAP. This authority may not be delegated.

§ 989.37 Procedures for analysis abroad.

Procedures for analysis of environmental actions abroad are contained in 32 CFR part 187. That directive provides comprehensive policies, definitions, and procedures for implementing E.O. 12114. For analysis of Air Force actions abroad, 32 CFR part 187 will be followed.

§ 989.38 Requirements for analysis abroad.

The EPF will generally perform the same functions for analysis of actions abroad that it performs in the United States. In addition to the requirements of 32 CFR part 187, the following Air Force specific rules apply.

(a) For EAs dealing with global commons (geographic areas beyond the jurisdiction of the United States or any foreign nation) HQ USAF/ILEV will review actions that are above the MAJCOM approval authority. In this instance, approval authority refers to the same approval authority that would apply to an EA in the United States. The EPF documents a decision not to do an EIS.

(b) For EISs dealing with the global commons, the EPF provides sufficient copies to HQ USAF/ILEV for the HQ USAF ESOHC review and AFCEE/EC technical review. After ESOHC review, the EPF makes a recommendation as to whether the proposed draft EIS will be released as a draft EIS.

(c) For environmental studies and environmental reviews, forward, when appropriate, environmental studies and reviews to HQ USAF/ILEV for coordination among appropriate federal agencies. HQ USAF/ILEV makes environmental studies and reviews available to the Department of State and other interested federal agencies, and, on request, to the United States public, in accordance with 32 CFR part 187. HQ USAF/ILEV also may inform interested foreign governments or furnish copies of studies, in accordance with 32 CFR part 187.

Attachment 1 to Part 989—Glossary of References, Abbreviations, Acronyms, and Terms

References—Legislative

10 U.S.C. 2687, Base Closures and Realignments
42 U.S.C. 4321–4347, National Environmental Policy Act of 1969
42 U.S.C. 7506(c), Clean Air Act Amendments of 1990
42 U.S.C. 13101(b), Pollution Prevention Act of 1990
43 U.S.C. 155–158, Engle Act

Executive Orders

Executive Order 11988, Floodplain Management, May 24, 1977
Executive Order 11990, Protection of Wetlands, May 24, 1977
Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, January 4, 1979
Executive Order 12372, Intergovernmental Review of Federal Programs, July 14, 1982
Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994

U.S. Government Agency Publications

Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR parts 1500–1508
Department of Defense Directive (DoDD) 4715.1, Environmental Security
Department of Defense Directive (DoDD) 6050.7, Environmental Effects Abroad of Major Department of Defense Actions, March 31, 1979 (32 CFR part 187)

[13] See footnote 1 to § 989.1.
[14] See footnote 1 to § 989.1.
[15] See footnote 1 to § 989.1.

Department of Defense Instruction (DoDI) 4715.9, Environmental Planning and Analysis
DoDD 5000.1, Defense Acquisition
Department of Defense 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information Systems (MAIS) Acquisition Programs, with Change 1

Air Force Publications

AFPD 32–70, Environmental Quality
AFI 32–1021, Planning and Programming of Facility Construction Projects
AFI 32–7002, Environmental Information Management System
AFI 32–7005, Environmental Protection Committees
AFI 32–7040, Air Quality Compliance
AFI 32–7062, Air Force Comprehensive Planning
AFI 32–7063, Air Installation Compatible Use Zone Program
AFI 32–7064, Integrated Natural Resources Management
AFI 32–7080, Pollution Prevention Program
AFI 35–202, Environmental Community Involvement
AFI 35–205, Air Force Security and Policy Review Program
AFMAN 37–139, Records Disposition—Standards

Abbreviations and Acronyms

Abbreviation or acronym, and definition:

AFCEE Air Force Center for Environmental Excellence
AFCEE/EC Air Force Center for Environmental Excellence/ Environmental Conservation and Planning Directorate
AFI Air Force Instruction
AFLSA/JACE Air Force Legal Services Agency/Environmental Law and Litigation Division
AFLSA/JAJT Air Force Legal Services Agency/Trial Judiciary Division
AFMAN Air Force Manual
AFMOA/SG Air Force Medical Operations Agency/Aerospace Medicine Office
AFPD Air Force Policy Directive
AFRES Air Force Reserve
ANG Air National Guard
ANGRC Air National Guard Readiness Center
CATEX Ctegorical Exclusion
CEQ Council on Environmental Quality
CFR Code of Federal Regulations
DoD Department of Defense
DoDD Department of Defense Directive
DoDI Department of Defense Instruction
DOPAA Description of Proposed Action and Alternatives
EA Environmental Assessment
EIAP Environmental Impact Analysis Process
EIS Environmental Impact Statement
E.O. Executive Order
EPA Environmental Protection Agency
EPC Environmental Protection Committee
EPF Environmental Planning Function
ESOHC Environmental Safety and Occupational Health Committee
FAA Federal Aviation Administration
FEIS Final Environmental Impact Statement
FOA Field Operating Agency
FONPA Finding of No Practicable Alternative
FONSI Finding of No Significant Impact
GSA General Services Administration
HG AFMC Headquarters, Air Force Materiel Command
HQ USAF Headquarters, United States Air Force
HQ USAF/ILE The Air Force Civil Engineer
MAJCOM Major Command
MGM Materiel Group Manager
MOA Military Operating Area
MOU Memorandum of Understanding
MSL Mean Sea Level
NEPA National Environmental Policy Act of 1969
NGB–CF National Guard Bureau Air Directorate
NGB–JA National Guard Bureau Office of the Staff Judge Advocate
NGB–PA National Guard Bureau Office of Public Affairs
NOA Notice of Availability
NOI Notice of Intent
OSD Office of the Secretary of Defense
OSHA Occupational Safety and Health Administration
PDEIS Preliminary Draft Environmental Impact Statement
PGM Product Group Manager
REO Air Force Regional Environmental Office
ROD Record of Decision
SAF/AQR Deputy Assistant Secretary of the Air Force (Science, Technology, and Engineering)
SAF/GC Air Force General Counsel
SAF/LL Air Force Office of Legislative Liaison
SAF/MI Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment
SAF/MIQ Deputy Assistant Secretary of the Air Force (Environment, Safety, and Occupational Health)
SAF/PA Air Force Office of Public Affairs
SJA Staff Judge Advocate
SM Single Manager
SPD Single Program Director
SPOC Single Point of Contact
TDY Temporary Duty
U.S.C. United States Code

Terms

Note: All definitions in the CEQ Regulations, 40 CFR part 1508, apply to this part. In addition, the following definitions apply:

Description of Proposed Action and Alternatives (DOPAA)—An Air Force document that is the framework for assessing the environmental impact of a proposal. It describes the purpose and need for the action, the alternatives to be considered, and the rationale used to arrive at the proposed action. The DOPAA often unfolds as writing progresses. The DOPAA can change during the internal scoping and public scoping process, especially as ideas and issues become clearer, and as new information makes changes necessary.

Environmental Impact Analysis Process (EIAP)—The Air Force program that implements the requirements of NEPA and requirements for analysis of environmental effects abroad under E.O. 12114.

Finding of No Practicable Alternative (FONPA)—Finding contained in a FONSI or ROD, according to Executive Orders 11988 and 11990, that explains why there are no practicable alternatives to an action affecting a wetland or floodplain, based on appropriate EIAP analysis or other documentation.

Interdisciplinary—An approach to environmental analysis involving more than one discipline or branch of learning.

Pollution Prevention—''Source reduction'', as defined under the Pollution Prevention Act, and other practices that reduce or eliminate pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or in the protection of natural resources by conservation.

Proponent—Any office, unit, or activity that proposes to initiate an action.

Scoping—A process for proposing alternatives to be addressed and for identifying the significant issues related to a proposed action. Scoping includes affirmative efforts to communicate with other federal agencies, state, Tribal, and local governments, and the public.

Single Manager—Any one of the Air Force designated weapon system program managers, that include System Program Directors (SPDs), Product Group Managers (PGMs), and Materiel Group Managers (MGM).

United States—All states, commonwealths, the District of Columbia, territories and possessions of the United States, and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include American Samoa, Guam, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, Palmyra Island, the Virgin Islands, and Wake Island.

Attachment 2 to Part 989—Categorical Exclusions

A2.1. Proponent/EPF Responsibility. Although a proposed action may qualify for a categorical exclusion from the requirements for environmental impact analysis under NEPA, this exclusion does not relieve the EPF or the proponent of responsibility for complying with all other environmental requirements related to the proposal, including requirements for permits, state regulatory agency review of plans, and so on.

A2.2. Additional Analysis. Circumstances may arise in which usually categorically excluded actions may have a significant environmental impact and, therefore, may generate a requirement for further environmental analysis. Examples of situations where such unique circumstances may be present include:

A2.2.1. Actions of greater scope or size than generally experienced for a particularly category of action.

A2.2.2. Potential for degradation (even though slight) of already marginal or poor environmental conditions.

A2.2.3. Initiating a degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

A2.2.4. Use of unproved technology.

A2.2.5. Use of hazardous or toxic substances that may come in contact with the surrounding environment.

A2.2.6. Presence of threatened or endangered species, archaeological remains, historical sites, or other protected resources.

A2.2.7. Proposals adversely affecting areas of critical environmental concern, such as prime or unique agricultural lands, wetlands, coastal zones, wilderness areas, floodplains, or wild and scenic river areas.

A2.2.8. Proposals with significant and adverse environmental effects on minority and low-income populations.

A2.3. CATEX List. Actions that are categorically excluded in the absence of unique circumstances are:

A2.3.1. Routine procurement of goods and services.

A2.3.2. Routine Commissary and Exchange operations.

A2.3.3. Routine recreational and welfare activities.

A2.3.4. Normal personnel, fiscal or budgeting, and administrative activities and decisions including those involving military and civilian personnel (for example, recruiting, processing, paying, and records keeping).

A2.3.5. Preparing, revising, or adopting regulations, instructions, directives, or guidance documents that do not, themselves, result in an action being taken.

A2.3.6. Preparing, revising, or adopting regulations, instructions, directives, or guidance documents that implement (without substantial change) the regulations, instructions, directives, or guidance documents from higher headquarters or other Federal agencies with superior subject matter jurisdiction.

A2.3.7. Continuation or resumption of pre-existing actions, where there is no substantial change in existing conditions or existing land uses and where the actions were originally evaluated in accordance with applicable law and regulations, and surrounding circumstances have not changed.

A2.3.8. Performing interior and exterior construction within the 5-foot line of a building without changing the land use of the existing building.

A2.3.9. Repairing and replacing real property installed equipment.

A2.3.10. Routine facility maintenance and repair that does not involve disturbing significant quantities of hazardous materials such as asbestos and lead-based paint.

A2.3.11. Actions similar to other actions which have been determined to have an insignificant impact in a similar setting as established in an EIS or an EA resulting in a FONSI. The EPF must document application of this CATEX on AF Form 813, specifically identifying the previous Air Force approved environmental document which provides the basis for this determination.

A2.3.12. Installing, operating, modifying, and routinely repairing and replacing utility and communications systems, data processing cable, and similar electronic equipment that use existing rights of way, easements, distribution systems, or facilities.

A2.3.13. Installing or modifying airfield operational equipment (such as runway visual range equipment, visual glide path systems, and remote transmitter or receiver facilities) on airfield property and usually accessible only to maintenance personnel.

A2.3.14. Installing on previously developed land, equipment that does not substantially alter land use (i.e., land use of more than one acre). This includes outgrants to private lessees for similar construction. The EPF must document application of this CATEX on AF Form 813.

A2.3.15. Laying-away or mothballing a production facility or adopting a reduced maintenance level at a closing installation when (1) agreement on any required historic preservation effort has been reached with the state historic preservation officer and the Advisory Council on Historic Preservation, and (2) no degradation in the environmental restoration program will occur.

A2.3.16. Acquiring land and ingrants (50 acres or less) for activities otherwise subject to CATEX. The EPF must document application of this CATEX on AF Form 813.

A2.3.17. Transferring land, facilities, and personal property for which the General Services Administration (GSA) is the action agency. Such transfers are excluded only if there is no change in land use and GSA complies with its NEPA requirements.

A2.3.18. Transferring administrative control of real property within the Air Force or to another military department or to another Federal agency, not including GSA, including returning public domain lands to the Department of the Interior.

A2.3.19. Granting easements, leases, licenses, rights of entry, and permits to use Air Force controlled property for activities that, if conducted by the Air Force, could be categorically excluded in accordance with this attachment. The EPF must document application of this CATEX on AF Form 813.

A2.3.20. Converting in-house services to contract services.

A2.3.21. Routine personnel decreases and increases, including work force conversion to either on-base contractor operation or to military operation from contractor operation (excluding base closure and realignment actions which are subject to congressional reporting under 10 U.S.C. 2687).

A2.3.22. Routine, temporary movement of personnel, including deployments of personnel on a temporary duty (TDY) basis where existing facilities are used.

A2.3.23. Personnel reductions resulting from workload adjustments, reduced personnel funding levels, skill imbalances, or other similar causes.

A2.3.24. Study efforts that involve no commitment of resources other than personnel and funding allocations.

A2.3.25. The analysis and assessment of the natural environment without altering it (inspections, audits, surveys, investigations). This CATEX includes the granting of any permits necessary for such surveys, provided that the technology or procedure involved is well understood and there are no adverse environmental impacts anticipated from it. The EPF must document application of this CATEX on AF Form 813.

A2.3.26. Undertaking specific investigatory activities to support remedial action activities for purposes of cleanup of Defense Environmental Restoration Program (DERP) and Resource Conservation and Recovery Act (RCRA) corrective action sites. These activities include soil borings and sampling, installation, and operation of test or monitoring wells. This CATEX applies to studies that assist in determining final cleanup actions when they are conducted in accordance with legal agreements, administrative orders, or work plans previously agreed to by EPA or state regulators.

A2.3.27. Normal or routine basic and applied scientific research confined to the laboratory and in compliance with all applicable safety, environmental, and natural resource conservation laws.

A2.3.28. Routine transporting of hazardous materials and wastes in accordance with applicable Federal, state, interstate, and local laws.

A2.3.29. Emergency handling and transporting of small quantities of chemical surety material or suspected chemical surety material, whether or not classified as hazardous or toxic waste, from a discovery site to a permitted storage, treatment, or disposal facility.

A2.3.30. Immediate responses to the release or discharge of oil or hazardous materials in accordance with an approved Spill Prevention and Response Plan or Spill Contingency Plan or that are otherwise consistent with the requirements of the National Contingency Plan.

A2.3.31. Relocating a small number of aircraft to an installation with similar aircraft that does not result in a significant increase of total flying hours or the total number of aircraft operations, a change in flight tracks, or an increase in permanent personnel or logistics support requirements at the receiving installation. Repetitive use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts. The EPF must document application of this CATEX on AF Form 813.

A2.3.32. Temporary (for less than 30 days) increases in air operations up to 50 percent of the typical installation aircraft operation rate or increases of 50 operations a day, whichever is greater. Repetitive use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts.

A2.3.33. Flying activities that comply with the Federal aviation regulations, that are dispersed over a wide area and that do not frequently (more than once a day) pass near the same ground points. This CATEX does not cover regular activity on established routes or within special use airspace.

A2.3.34. Supersonic flying operations over land and above 30,000 feet MSL, or over water and above 10,000 feet MSL and more than 15 nautical miles from land.

A2.3.35. Formal requests to the FAA, or host-nation equivalent agency, to establish or modify special use airspace (for example, restricted areas, warning areas, military operating areas) and military training routes for subsonic operations that have a base altitude of 3,000 feet above ground level or higher. The EPF must document application of this CATEX on AF Form 813, which must accompany the request to the FAA.

A2.3.36. Adopting airfield approach, departure, and en route procedures that are less than 3,000 feet above ground level, and that also do not route air traffic over noise-

sensitive areas, including residential neighborhoods or cultural, historical, and outdoor recreational areas. The EPF may categorically exclude such air traffic patterns at or greater than 3,000 feet above ground level regardless of underlying land use.

A2.3.37. Participating in ''air shows'' and fly-overs by Air Force aircraft at non-Air Force public events after obtaining FAA coordination and approval.

A2.3.38. Conducting Air Force ''open houses'' and similar events, including air shows, golf tournaments, home shows, and the like, where crowds gather at an Air Force installation, so long as crowd and traffic control, etc., have not in the past presented significant safety or environmental impacts.

Attachment 3 to Part 989—Procedures for Holding Public Hearings on Draft Environmental Impact statements (EIS)

A.3.1. General Information:

A3.1.1. The Office of the Judge Advocate General, through the Air Force Legal Services Agency/Trial Judiciary Division (AFLSA/JAJT) and its field organization, is responsible for conducting public hearings and assuring verbatim transcripts are accomplished.

A3.1.2. The EPF, with proponent, AFLSA/JAJT, and Public Affairs support, establishes the date and location, arranges for hiring the court reporter, funds temporary duty costs for the hearing officer, makes logistical arrangements (for example, publishing notices, arranging for press coverage, obtaining tables and chairs, etc.).

A3.1.3. The procedures outlined below have proven themselves through many prior applications. However, there may be rare instances when circumstances warrant conducting public hearings under a different format, e.g., public/town meeting, information booths, third party moderator, etc. In these cases, forward a request with justification to deviate from these procedures to USAF/ILEVP for SAF/MIQ approval.

A3.2. Notice of Hearing (40 CFR 1506.6):

A3.2.1. Public Affairs officers:

A3.2.1.1. Announce public hearings and assemble a mailing list of individuals to be invited.

A3.2.1.2. Distribute announcements of a hearing to all interested individuals and agencies, including the print and electronic media.

A3.2.1.3. Place a newspaper display advertisement announcing the time and place of the hearing as well as other pertinent particulars.

A3.2.1.4. Distribute the notice in a timely manner so it will reach recipients or be published at least 15 days before the hearing date. Distribute notices fewer than 15 days before the hearing date when you have substantial justification and if the justification for a shortened notice period appears in the notice.

A3.2.1.5. Develop and distribute news release.

A3.2.2. If an action has effects of national concern, publish notices in the **Federal Register** and mail notices to national organizations that have an interest in the matter.

A3.2.2.1. Because of the longer lead time required by the **Federal Register**, send out notices for publication in the **Federal Register** to arrive at HQ USAF/CEV no later than 30 days before the hearing date.

A3.2.3. The notice should include:

A3.2.3.1. Date, time, place, and subject of the hearing.

A3.2.3.2. A description of the general format of the hearing.

A3.2.3.3. The name and telephone number of a person to contact for more information.

A3.2.3.4. A suggestion that speakers submit (in writing or by return call) their intention to participate, with an indication of which environmental impact (or impacts) they wish to address.

A3.2.3.5. Any limitation on the length of oral statements.

A3.2.3.6. A suggestion that speakers submit statements of considerable length in writing.

A3.2.3.7. A summary of the proposed action.

A3.2.3.8. The location where the Draft EIS and any appendices are available for examination.

A.3.3. Availability of the Draft EIS to the Public. The EPF makes copies of the Draft EIS available to the public at an Air Force installation and other reasonably accessible place in the vicinity of the proposed action and public hearing (e.g., public library).

A3.4. Place of the Hearing. The EPF arranges to hold the hearing at a time and place and in an area readily accessible to military and civilian organizations and individuals interested in the proposed action. Generally, the EPF should arrange to hold the hearing in an off-base civilian facility, which is more accessible to the public.

A3.5. Hearing Officer:

A3.5.1. The AFLSA/JAJT selects a military trial judge to preside over hearings. The hearing officer does not need to have personal knowledge of the project, other than familiarity with the Draft EIS. In no event should the hearing officer be a judge advocate from the proponent or subordinate command, be assigned to the same installation with which the hearing is concerned, or have participated personally in the development of the project, or have rendered legal advice or assistance with respect to it (or be expected to do so in the future). The principal qualification of the hearing officer should be the ability to conduct a hearing as an impartial participant.

A3.5.2. The primary duties of the hearing officer are to make sure that the hearing is orderly, is recorded, and that interested parties have a reasonable opportunity to speak. The presiding officer should direct the speakers' attention to the purpose of the hearing, which is to consider the environmental impacts of the proposed project. Speakers should have a time limit to ensure maximum public input to the decision-maker.

A3.6. Record of the Hearing. The EIS preparation team must make sure a verbatim transcribed record of the hearing is prepared, including all stated positions, all questions, and all responses. The EIS preparation team should append all written submissions that parties provide to the hearing officer during the hearing to the record as attachments. The EIS preparation team should also append a list of persons who spoke at the hearing and submitted written comments and a list of the organizations or interests they represent with addresses. The EIS preparation team must make sure a verbatim transcript of the hearing is provided to the EPF for inclusion as an appendix to the Final EIS. The officer should also ensure that all persons who request a copy of the transcript get a copy when it is completed. Copying charges are determined according to 40 CFR 1506.6(f).

A3.7. Hearing Format. Use the format outlined below as a general guideline for conducting a hearing. Hearing officers should tailor the format to meet the hearing objectives. These objectives provide information to the public, record opinions of interested persons on environmental impacts of the proposed action, and set out alternatives for improving the EIS and for later consideration.

A3.7.1. Record of Attendees. The hearing officer should make a list of all persons who wish to speak at the hearing to help the hearing officer in calling on these individuals, to ensure an accurate transcript of the hearing, and to enable the officer to send a copy of the Final EIS (40 CFR 1502.19) to any person, organization, or agency that provided substantive comments at the hearing. The hearing officer should assign assistants to the entrance of the hearing room to provide cards on which individuals can voluntarily write their names, addresses, telephone numbers, organizations they represent, and titles; whether they desire to make a statement at the hearing; and what environmental area(s) they wish to address. The hearing officer can then use the cards to call on individuals who desire to make statements. However, the hearing officer will not deny entry to the hearing or the right to speak to people who decline to submit this information on cards.

A3.7.2. Introductory Remarks. The hearing officer should first introduce himself or herself and the EIS preparation team. Then the hearing officer should make a brief statement on the purpose of the hearing and give the general ground rules on how it will be conducted. This is the proper time to welcome any dignitaries who are present. The hearing officer should explain that he or she does not make any recommendation or decision on whether the proposed project should be continued, modified, or abandoned or how the EIS should be prepared.

A3.7.3. Explanation of the Proposed Action. The Air Force EIS preparation team representative should next explain the proposed action, the alternatives, the potential environmental consequences, and the EIAP.

A3.7.4. Questions by Attendees. After the EIS team representative explains the proposed action, alternatives, and consequences, the hearing officer should give attendees a chance to ask questions to clarify points they may not have understood. The EIS preparation team may have to reply in writing, at a later date, to some of the questions. While the Air Force EIS preparation team should be as responsive as possible in answering questions about the proposal, they should not become involved

in debate the questioners over the merits of the proposed action. Cross-examination of speakers, either those of the Air Force or the public, is not the purpose of an informal hearing. If necessary, the hearing officer may limit questioning or conduct portions of the hearing to ensure proper lines of inquiry. However, the hearing officer should include all questions in the hearing record.

A3.7.5. Statement of Attendees. The hearing officer must give the persons attending the hearing a chance to present oral or written statements. The hearing officer should be sure the recorder has the name and address of each person who submits an oral or written statement. The officer should also permit the attendees to submit written statements within a reasonable time, usually two weeks, following the hearing. The officer should allot a reasonable length of time at the hearing for receiving oral statements. The officer may waive any announced time limit at his or her discretion. The hearing officer may allow those who have not previously indicated a desire to speak to identify themselves and be recognized only after those who have previously indicated their intentions to speak have spoken.

A3.7.6 Ending or Extending a Hearing. The hearing officer has the power to end the hearing if the hearing becomes disorderly, if the speakers become repetitive, or for other good cause. In any such case, the hearing officer must make a statement for the record on the reasons for terminating the hearing. The hearing officer may also extend the hearing beyond the originally announced date and time. The officer should announce the extension to a later date or time during the hearing and prior to the hearing if possible.

A3.8. Adjourning the Hearing. After all persons have had a chance to speak, when the hearing has culled a representative view of public opinion, or when the time set for the hearing and any reasonable extension of time has ended, the hearing officer adjourns the hearing. In certain circumstances (for example, if the hearing officer believes it is likely that some participants will introduce new and relevant information), the hearing officer may justify scheduling an additional, separate hearing session. if the hearing officer makes the decision to hold another hearing while presiding over the original hearing he or she should announce that another public hearing will be scheduled or is under consideration. The officer gives notice of a decision to continue these hearings in essentially the same way he or she announced the original hearing, time permitting. The Public Affairs officer provides the required public notices and directs notices to interested parties in coordination with the hearing officer. Because of lead time constraints, SAF/MIQ may waive **Federal Register** notice requirements or advertisements in local publications. At the conclusion of the hearing, the hearing officer should inform the attendees of the deadline (usually 2 weeks) to submit additional written remarks in the hearing record. The officer should also notify attendees of the deadline for the commenting period of the Draft EIS.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–33457 Filed 12–23–97; 8:45 am]

BILLING CODE 3910–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Regulatory negotiation committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet on: Saturday, January 31, 1998, 2:00 p.m. to 6:00 p.m.; Sunday, February 1, 1998, 8:30 a.m. to 5:00 p.m.; and Monday, February 2, 1998, 8:30 a.m. to 5:00 p.m.

ADDRESSES: The committee will meet at the Princess Hotel, 1404 West Vacation Road, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request. This document is also available on the Board's web site (http://www.access-board.gov/rules/outdoor.htm).

SUPPLEMENTARY INFORMATION: In June 1997, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. (62 FR 30546, June 4, 1997). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by January 15, 1998, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 97–33625 Filed 12–23–97; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–203–0062; FRL–5940–7]

Approval and Promulgation of State Implementation Plans; California; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision submitted by the State of California relating to control measures for attaining the ozone national ambient air quality standards (NAAQS) in the Ventura County nonattainment area. The submittal revises control measure adoption schedules in the 1994 ozone SIP for Ventura County. EPA is proposing to approve the SIP revision under provisions of the Clean Air Act (CAA or the Act) regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Written comments on this proposal must be received by January 23, 1998.

ADDRESSES: Comments should be addressed to the USEPA contact listed below.

The rulemaking docket for this notice may be inspected and copied at the following location during normal business hours. A reasonable fee may be charged for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office 75 Hawthorne Street, San Francisco, CA 94105–3901

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, California

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California

FOR FURTHER INFORMATION CONTACT: Dave Jesson (415) 744–1288, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California, 94105–3901.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

The Federal CAA was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. Under section 107(d)(1)(C) of the Act, areas designated nonattainment prior to enactment of the 1990 amendments, including Ventura, were designated nonattainment by operation of law. Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law, depending on the area's air quality problem. Ventura County was classified as severe, with an attainment date of November 15, 2005.[1]

Section 172 of the Act contains general requirements applicable to SIPs for nonattainment areas. Section 182 of the Act sets out additional air quality planning requirements for ozone nonattainment areas.

The most fundamental of these provisions is the requirement that ozone nonattainment areas classified as serious, severe, or extreme, submit by November 15, 1994, a SIP demonstrating attainment of the ozone NAAQS as expeditiously as practicable but no later than the deadline applicable to the area's classification. CAA section 182(c)(2)(A). Such a demonstration must provide enforceable measures to achieve emission reductions at or below the level predicted to result in attainment of the NAAQS throughout the nonattainment area. Sections 182(b)(1) and 182(c)(2)(B) also require the SIPs to achieve specific rates of progress (ROP) in milestone years leading to the attainment year.

EPA has issued a ''General Preamble'' describing the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The reader should refer to the General Preamble for a more detailed discussion of EPA's preliminary interpretations of Title I requirements. In this proposed rulemaking action, EPA is applying these policies to the Ventura ozone SIP submittal, taking into consideration the specific factual issues presented.

B. EPA Actions on Prior Ventura Ozone SIP Revisions

The Ventura County Air Pollution Control District (VCAPCD) adopted an ozone attainment plan on November 8, 1994. This plan was forwarded to the California Air Resources Board (CARB), which submitted the plan as a proposed revision to the California SIP on November 15, 1994. On December 19, 1995, VCAPCD adopted an updated plan, making minor revisions to adoption and implementation schedules and estimates of emissions reductions for some of the control measures. On July 12, 1996, CARB submitted this updated plan, with a request that EPA approve the corrected version of the control measures.

On January 8, 1997 (62 FR 1150), EPA issued final approval of the Ventura 1994 ozone SIP, as amended by the submittal of July 12, 1996. Specifically, EPA approved the Ventura 1994 ozone SIP with respect to the Act's requirements for emission inventories, control measures, modeling, and demonstrations of 15% ROP and post-1996 ROP and attainment. As part of this action, EPA approved, under sections 110(k)(3) and 301(a) of the Act, VCAPCD's enforceable commitments to adopt and implement 18 control measures by express dates to achieve specific emission reductions for the ROP milestone years 1999, 2002, and 2005.

EPA's approval noted that VCAPCD had adopted on January 9, 1996, minor further changes to the adoption schedule and emission reductions for many of the control measures. Because the further changes had not yet been submitted by CARB, however, EPA explained that the Agency must act on the adoption schedule as revised by Ventura on December 19, 1995. EPA noted that if the January 1996 changes were to be submitted as a further revision to the SIP's rule adoption schedule, EPA intended to approve them since the changes did not adversely affect ROP or attainment (62 FR 1175).

C. Current SIP Revision

On October 21, 1997, the VCAPCD Board adopted, after proper public notice and involvement, a 1997 revision to the ozone plan, updating the adoption and implementation dates for 8 measures in the 1994 ozone SIP.[2]

On November 5, 1997, CARB adopted and submitted this update as a SIP revision. The docket to this proposed rulemaking includes CARB Executive Order G–125–227, dated November 5, 1997, and a SIP transmittal letter from Michael P. Kenny, CARB Executive Officer, to Felicia Marcus, EPA Regional Administrator, Region 9, dated November 5, 1997. On November 19, 1997, EPA found the revision to be complete, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V.[3] A technical clarification regarding emission reductions for each measure is also part of the docket to this action. The clarification is in a November 20, 1997 letter from Richard H. Baldwin, VCAPCD Air Pollution Control Officer, to Michael Kenny. CARB submitted this letter to EPA on December 5, 1997 (letter from Michael P. Kenny to David Howekamp, EPA) as a technical clarification to the SIP.

The table entitled ''Revised Adoption and Implementation Dates for Ventura Measures'' displays the adoption and implementation dates for each rule in the existing SIP and the proposed revision.

REVISED ADOPTION AND IMPLEMENTATION DATES FOR VENTURA MEASURES

Rule No.	Control measure	Adoption		Implementation	
		SIP	Rev	SIP	Rev
R–303	AIM Architectural Coatings	12/96	12/99	12/97	
	Phase 1				2000

[1] The designation and classification of Ventura County for ozone are codified at 40 CFR 81.305.

[2] VCAPCD Board Resolution is part of the docket for this proposed rulemaking. The VCAPCD plan update also extends the adoption date for one additional measure, R–705/N–705 Low Emission Vehicle Fleets, which was not approved as part of the 1994 ozone SIP. CARB did not include this measure in the 1997 SIP submittal. VCAPCD assigns no emission reduction credit to the measure and does not propose a specific implementation date.

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

REVISED ADOPTION AND IMPLEMENTATION DATES FOR VENTURA MEASURES—Continued

Rule No.	Control measure	Adoption		Implementation	
		SIP	Rev	SIP	Rev
	Phase 2	.....	.....	.....	2001
	Phase 3	.....	.....	.....	2003
R–322	Painter Certification Program	6/97	12/00	.....	.....
	Phase 1	.....	.....	12/97	12/01
	Phase 2	.....	.....	12/98	12/02
R–327	Electronic Component Manufacturing	6/96	12/99	7/97	12/01
R–410	Marine Tanker Loading	9/96	12/01	7/97	12/02
R–420	Pleasure Craft Fuel Transfer	6/97	12/01	7/98	12/02
R–421	Utility Engine Refueling Operations	12/96	12/01	9/97	12/02
R–425	Enhanced Fugitive I/M Program	9/96	12/98	5/97	12/99
N–102	Boilers, Steam Generators, Heaters <1 MMBtu	12/96	12/99	1/97	12/00

In a technical clarification to the SIP submittal, VCAPCD also provided a table of revised emission reductions for each measure and ROP milestone, reflecting improved information on the measures (primarily corrections to calculation errors) and the impact of changes to the adoption schedule. VCAPCD adopted many of these revised emission reductions as part of the 1995 AQMP revision adopted December 19, 1995. The revised 2005 emission reductions proposed for approval in this action were used in the modeling in the Ventura attainment demonstration, which was approved by EPA as part of the Ventura 1994 ozone SIP.

The revised estimates of emission reductions based upon the December 19, 1995 reanalysis and the revised implementation schedule appear below in the table entitled ''Revised Emission Reductions for Ventura Measures.''

REVISED EMISSION REDUCTIONS FOR VENTURA MEASURES

Rule No.	Control measure	1999		2002		2005	
		SIP	Rev	SIP	Rev	SIP	Rev
R–303	AIM Architectural Coatings	0.00	0.00	0.00	0.73	0.89	0.89
R–322	Painter Certification Program	0.48	0.00	0.51	0.11	0.53	0.59
R–327	Electronic Component Manufacturing	0.07	0.00	0.07	0.07	0.08	0.08
R–410	Marine Tanker Loading	0.00	0.00	0.00	0.00	0.00	0.00
R–420	Pleasure Craft Fuel Transfer	0.08	0.00	0.08	0.00	0.08	0.08
R–421	Utility Engine Refueling Operations	0.19	0.00	0.20	0.00	0.20	0.20
R–425	Enhanced Fugitive I/M Program	1.21	0.00	1.07	1.16	0.95	1.03
N–102	Boilers, Steam Generators, Heaters <1 MMBtu	0.05	0.00	0.06	0.04	0.06	0.04
	Total						
	VOC	2.03	0.00	1.93	2.07	2.73	2.87
	NO_x	0.05	0.00	0.06	0.04	0.06	0.04

Sources: The 1994 SIP emission reductions for each control measure for each ROP milestone year are shown in a table entitled ''Ventura Local Control Measures'' in EPA's final approval of the Ventura 1994 ozone SIP. 62 FR 1176. The revised emissions reductions are taken from a letter from Richard H. Baldwin to Michael Kenny, dated November 20, 1997, table entitled ''Ventura Local Control Measures (tons per day).'' All emission reductions are in tons per day of volatile organic compounds (VOC), except for measure N–102, which is tons per day of oxides of nitrogen (NO_x).

The SIP revision included documentation explaining for each measure why the projected adoption and implementation dates were not realistic, considering the level of analysis required or, for some new-technology measures, the relatively small market for control equipment and devices in Ventura County.[4] VCAPCD's documentation demonstrated that postponement of the adoption and implementation dates for the measures will not jeopardize ROP because the area, relying only on regulations that are now fully adopted, will achieve VOC and NO_X emissions reductions significantly in excess of the ROP reductions required under the CAA. Finally, VCAPCD noted that all measures would continue to be fully implemented by the attainment date, and that the revised estimate of emission reductions from the measures in 2005 was used in the ozone modeling analysis in the 1994 ozone SIP.

II. EPA Action

A. Analysis

Two sections of the CAA constrain EPA's authority to approve relaxations to the SIP. Section 110(l) prohibits EPA from approving a revision if it would ''interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.'' Section 193 prevents modification of control requirements ''in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990 in any area which is a nonattainment area for any air pollutant * * * unless the modification insures equivalent or greater emission reductions of such air pollutant.''

The Ventura 1994 ozone SIP, including its control measures and demonstrations of ROP and attainment, was not required by an order, settlement agreement, or plan in effect before November 15, 1990. Therefore, the provisions of section 193 of the Act do not apply to this proposed revision.

Section 110(l) does not authorize EPA approval of a revised SIP if the revision

[4] A copy of the documentation, ''October 21, 1997 Ventura County Air Pollution Control Board Packet,'' is included in the docket for this proposed rulemaking.

would interfere with attainment and reasonable further progress, or any other applicable CAA requirement.

The cumulative effect of the proposed extensions of implementation dates is a decrease in 1999 emission reductions of 2.03 tpd VOC and 0.05 tpd NO_X. The net effect of the revision is considerably less in 2002 and 2005. For these ROP milestone years, the delayed NO_x reductions amount to only 0.02 tpd, and VOC reductions are actually increased by 0.14 tpd, due to recalculated benefits from measures R–303 and R–425.

The Ventura 1994 ozone SIP meets the minimum Federal ROP requirements without reliance on any local measures that were not fully adopted in regulatory form.[5] Therefore, the proposed revision would not interfere with reasonable further progress, which for ozone areas is equivalent to the minimum CAA ROP requirements applicable to the area.

Because the proposed revision simply delays rather than relaxes or withdraws control measures in the approved SIP, because the total amount of postponed emission reductions is small, because there is a net increase in the total of ozone precursor emission reductions in the attainment year, and because the VOC/NO_X emission reductions reflected in this submittal were used in the modeled attainment demonstration in the Ventura 1994 ozone SIP, EPA concludes that the proposed revision would not interfere with any requirement of the CAA relating to the 1-hour ozone NAAQS, or any other NAAQS, or any other State obligation under the Act.

B. Summary of Proposed Action

In this document, EPA is proposing to approve the 1997 update to the 1994 ozone SIP for Ventura under sections 110(k)(3) and 301(a) of the Act. The effect of this approval, if finalized, would be to amend the federally enforceable adoption and implementation dates and emission reductions for 8 measures in the Ventura 1994 ozone SIP as shown in the tables above entitled ''Revised Adoption and Implementation Dates for Ventura Measures'' and ''Revised Emission Reductions for Ventura Measures.''

[5] EPA's final approval of the Ventura 1994 ozone SIP at one point states that ''the Ventura control measures are relied upon in meeting the post-1996 ROP and attainment requirements of the Act.'' 62 FR 1176. This statement is true with respect to attainment but is in error with respect to ROP requirements. VCAPCD's 1994 ozone SIP includes a Post-96 ROP schedule that meets the minimum CAA requirement for each milestone year (9% reduction in emissions for each 3-year period through the attainment year, *i.e.*, 1999, 2002, 2005), relying only on fully adopted regulations, with no credit taken from local control measures. The 1994 ozone SIP uses creditable NO_X reductions to substitute for VOC shortfalls in 2002 and 2005, as allowed by section 182(c)(2)(C) of the Act.

III. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA, do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The OMB has exempted this action from review under Executive Order 12866.

IV. 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 these SIP revisions, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 and 182(b) 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 approved or disapproved by this action will impose any mandate upon the State, local, or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 16, 1997.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 97–33609 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 441

[FRL–5940–8]

A Public Hearing on the Proposed Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries (IL) Industry

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: The Environmental Protection Agency is conducting a second public hearing, in addition to the public hearing being conducted in Washington, D.C. to inform the public of the proposed effluent limitations guidelines and standards for the industrial laundries industry. The hearing is intended for interested parties to provide comments to the Agency on disputed technical, scientific, economic, or other issues.

DATES: The public hearing will be held on Wednesday, January 21, 1998, from 9:00 a.m. to 12:00 noon.

ADDRESSES: The hearing will be held at the Henry M. Jackson Federal Building, South Auditorium, Seattle, Washington. The building is located at 915 2nd Avenue. Persons wishing to present formal comments at the public hearing should have a written copy for submittal.

A limited number of rooms are available at the Westin Seattle Hotel.

Hotel reservations may be made by calling (206) 727–5888 and refer to the EPA Public Hearing to obtain a group rate of $99.00. The Westin Hotel at 1900 5th Avenue is approximately 10 blocks from the Henry M. Jackson Federal Building.

FOR FURTHER INFORMATION CONTACT: Marta Jordan, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW., Washington DC 20460. Telephone (202) 260–0817, fax (202) 260–7185 or E-Mail Jordan.Marta@epamail.epa.gov

SUPPLEMENTARY INFORMATION: EPA proposed effluent limitations guidelines and pretreatment standards for the Industrial Laundries Category under authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) (62 FR 66182, December 17, 1997). The Industrial Laundries Category includes facilities that launder industrial textile items such as, industrial: garments and uniforms, shop towels, printer towels, mops, mats, and dust control items from off-site as a business activity. The items that are laundered are owned either by the laundry facilities or their customers. Often these facilities wash other items that are not classified as industrial textile items, such as linen supply garments, linen flatwork, health-care items, and miscellaneous other items.

The public hearing will include a brief discussion of the proposed rule which includes scope, technology-based regulatory options, and other general industrial laundries industry issues. The hearing will be recorded or transcribed by a reporter for inclusion in the record for the Industrial Laundries Category rulemaking.

Documents relating to the topics mentioned above and a more detailed agenda will be available at the meeting.

Dated: December 18, 1997.

Tudor Davies,

Director, Office of Science and Technology.

[FR Doc. 97–33608 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Public Hearings on the Proposed Rule To List the Topeka Shiner as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) gives notice that four public hearings will be held on its proposal to list the Topeka shiner (*Notropis topeka*) as an endangered species. The Service proposed endangered status pursuant to the Endangered Species Act (Act) of 1973, as amended, for the Topeka shiner on October 24, 1997 (62 FR 55381). These hearings will allow additional comments on this proposal to be submitted from all interested parties.

DATES: The comment period on the proposal is reopened from January 12, 1998 through February 9, 1998. The public hearings will be held from 7 to 9:30 p.m. on each of the following evenings: January 26, 1998, in Manhattan, Kansas; January 27, 1998, in Bethany, Missouri; January 28, 1998, in Ft. Dodge, Iowa; and January 29, 1998, in Sioux Falls, South Dakota. An informal open forum will precede each hearing from 5 to 6:30 p.m. each evening.

ADDRESSES: The January 26 hearing will be held at the Kansas State University Student Union, Main Ballroom, 17th Street and Anderson Avenue, Manhattan, Kansas; the January 27 hearing will be held at the Bethany Community Center, 103 N. 25th Street, Bethany, Missouri; the January 28 hearing will be held at Iowa Central Community College, Vo-Tech Building, Conference Rooms 1 and 2, 330 Avenue M, Fort Dodge, Iowa; and the January 29 hearing will be at the University of Sioux Falls, Chapel Auditorium-Jeschke Fine Arts Center, 1101 West 22nd Street, Sioux Falls, South Dakota. Written comments and materials should be sent to: Field Supervisor, U.S. Fish and Wildlife Service, 315 Houston St., Suite E, Manhattan, Kansas 66502. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Vernon Tabor at the above address (785/539–3474).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(5)(E) of the Act requires that a public hearing be held on the proposal to list the Topeka shiner as an endangered species, if requested within 45 days of the proposal's publication in the **Federal Register**. Public requests were received in the allotted time period from parties in Iowa, Kansas, Missouri, and South Dakota.

Anyone expecting to make an oral presentation at these hearings is encouraged to provide a written copy of their statement to the hearing officer prior to the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at these hearings or mailed to the Service.

In order to accommodate the scheduled public hearings, the Service extends the public comment period. Written comments may be submitted from January 12, 1998 through February 9, 1998, to: Field Supervisor (see **ADDRESSES** section).

Author

The primary author of this document is Vernon Tabor (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531).

Dated: December 18, 1997.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 97–33537 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 62, No. 247
Wednesday, December 24, 1997

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

Submission for OMB Review; Comment Request

December 19, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Risk Management Agency

Title: Dairy Options Pilot Program.
OMB Control Number: 0563–New.
Summary of Collection: Information collection for the Dairy Options Pilot Program will take place through the use of two forms, one on-going process of electronic data transmission, and voluntary surveys.
Need and Use of The Information: The information is to be used by RMA in verifying compliance of participating producers and brokers, and evaluating the effectiveness of options as a risk management tool for dairy farmers.
Description of Respondents: Farms; Individuals or households; Business or other for-profit; Federal Government.
Number of Respondents: 35,329.
Frequency of Responses: Recordkeeping; Reporting: Semi-annually.
Total Burden Hours: 16,951.

Food, Nutrition and Consumer Services

Title: Adapting the Food Guide Pyramid for Young Children.
OMB Control Number: 0584–New.
Summary of Collection: Information will be collected through focus groups and prototype testing sessions concerning nutrition education.
Need and Use of the Information: Information will help USDA develop food guidance materials for parents of young children.
Description of Respondents: Individuals or households.
Number of Respondents: 180.
Frequency of Responses: Reporting: One-time.
Total Burden Hours: 360.

Office of Civil Rights

Title: Program Discrimination Complaints.
OMB Control Number: 0508–New.
Summary of Collection: Information is collected from respondents who wish to file discrimination complaints.
Need and Use of The Information: The information will be used by the staff of the USDA Office of Civil Rights to investigate, attempt resolution and settle the case.
Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local, or Tribal government.
Number of Respondents: 600.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 600.
Emergency Processing of This Submission Has Been Requested by January 15, 1998.

Farm Service Agency

Title: Assignments of Payments and Joint Payment Authorizations.
OMB Control Number: 0560–New.
Summary of Collection: Information is collected from respondents who want to assign agricultural payments to a third party.
Need and Use of The Information: The information allows USDA to pay the proper party when payments become due.
Description of Respondents: Farms.
Number of Respondents: 70,900.
Frequency of Respondent's: Reporting: On occasion.
Total Burden Hours: 11,778.

Farm Service Agency

Title: Tobacco Marketing Quota Referenda—7 CFR 717.
OMB Control Number: 0560–New.
Summary of Collection: A referendum is conducted of eligible farmers to determine whether they favor or oppose marketing quotas for the next three years.
Need and Use of The Information: The referendum is necessary to determine whether the producers do or do not favor national marketing quotas for tobacco.
Description of Respondents: Individuals or households; Farms.
Number of Respondents: 155,000.
Frequency of Responses: Reporting: Every 3 years.
Total Burden Hours: 4,300.

Farm Service Agency

Title: Assignments of Payments and Joint Payment Authorizations.
OMB Control Number: 0560–New.
Summary of Collection: Information is collected from respondents who want to assign agricultural payments to a third party.
Need and Use of The Information: The information allows USDA to pay the proper party when payments become due.
Description of Respondents: Farms.
Number of Respondents: 70,900.
Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 11,778.

Agricultural Marketing Service

Title: The National Organic Program.

OMB Control Number: 0581–New.

Summary of Collection: Information is required to accredit agents who will serve as inspectors of organically produced agricultural products and will document adherence to the established standards.

Need and Use of The Information: Information will be used by the Agricultural Marketing Service to certify inspection agents on an annual basis.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 187,651.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 377,171.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–33589 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[FV–96–327]

United States Standards for Grades of Canned Apples

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is soliciting comments on its proposal to change the United States Standard for Grades of Canned Applies. Specifically, AMS is proposing to lower the recommended drained weight for canned apples packed in No. 10 cans. This change would allow more equitable utilization of processed apples across domestic growing regions and will help the apple industry to meet it market needs.

DATES: Comments must be submitted on or before February 23, 1998.

ADDRESSES: Written comments may be submitted to Randle A. Macon, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agricultural, Room 0709, South Building; STOP 0247, P.O. Box 96456; Washington, D.C. 20090–6456; faxed to (202) 690–1087; or e-mailed to Randle__A__Macon@usda. gov.

Comments should reference the date and page number of this issue of the **Federal Register.** All comments received will be made available for public inspection at the address listed above during regular business hours.

The current United States Standards for Grades of Canned Apples, along with the proposed changes, are available either through the afore-mentioned address or by accessing AMS's Home Page on the Internet at the following address: www.ams.usda.gov/standards/frutcan.htm.

FOR FURTHER INFORMATION CONTACT: Contact Randle A. Macon at (202) 720–4693.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1622 (c)) directs and authorizes the Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *''. AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and make copies of official standards available upon request. The United States Standards for Grades of Canned Apples no longer appear in the Code of Federal Regulations but are maintained by the Department of Agriculture (USDA).

AMS is proposing to change the United States Standards for Grades of Canned Apples using the procedures it published in the August 13, 1997, **Federal Register** and that appear in Part 36 of Title 7 of the Code of Federal Regulations (7 CFR Part 36).

AMS received petitions from Independent Food Processors Company of Sunnyside, Washington; and Snokist Growers of Yakima, Washington, requesting the revision of the United States Standards for Grades of Canned Apples. The two petitioners represent a significant part of the Pacific Northwest apple industry. The Pacific Northwest apple industry provides almost half of the apples produced domestically.[1]

The petitions request that the recommend drained weight of 96 ounces for apples packed in No. 10 size cans, in the U.S. Standards for Grades of Canned Apples, is difficult to obtain and puts Pacific Northwest processors at an economic disadvantage in bidding for government and non-government contracts. The reasons given for this disparity are that the varietal types of apples and the growing conditions in the Northwest region are different from other apple producing regions around the country. The petitioners state that to meet the standard when packing certain varieties of apples, the cans are over-filled.

This condition may cause damage to the sliced apples which may cause the slices to be graded as less than ''Grade A.'' To meet USDA requirements for drained weight, some processors may be required to put more product into the can, causing economic hardship, damage to the product, and sometimes loss of the integrity of the can seal. If the seal's integrity is lost during processing, the product's wholesomeness is jeopardized.

The remedies recommended by the petitioners, though similar in purpose, are different. Snokist Growers of Yakima, Washington, recommends a reduction in the recommended drained weight for apples packed in No. 10 size cans, from 96 ounces to 92 ounces. Independent Food Processors Company of Sunnyside, Washington, recommends the elimination of the recommended drained weight for apples packed in No. 10 size cans, from the U.S. Standards for Grades of Canned Apples. If that is not possible the petitioner recommends the incorporation of a ''fill weight program'' in the U.S. Standards for Grades of Canned Apples to ensure that the ''recommended fill of container'' requirement is met with a reduction in the recommended drained weight for apples packed in No. 10 size cans, from 96 ounces to 85 ounces.

USDA has reviewed the petitions and data submitted, and has gathered additional information from relevant government agencies and industry sources including growers, processors, and buyers. Based on this information, USDA has found that there may be a disparity between the drained weights for canned apples from Pacific Northwest processors and those from other sections of the country. Though a variation in drained weights may exist, our review has shown that the difference is not great enough to warrant the changes to the Standards recommended by Independent Food Processors Company of Sunnyside, Washington.

Based on these findings, the USDA has agreed with the recommendation from Snokist Growers of Yakima, Washington, and is proposing to lower the recommended drained weight for apples packed No. 10 size cans, from 96 ounces to 92 ounces in the U.S. Standards for Grades of Canned Apples. This change would allow a more equitable marketing environment for the domestic canned apple industry.

[1] Source—USDA, NASS, ASB.

A 60-day comment period is provided for interested persons to comment on this change to the Standards.

Authority: 7 U.S.C. 1621–1627.

Dated: December 18, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–33590 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–97–00–200]

Notice of Program Continuation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice inviting applications for Fiscal Year 1998 Grant Funds under the Federal-State Marketing Improvement Program.

SUMMARY: Notice is hereby given that the Federal-State Marketing Improvement Program (FSMIP) was allocated $1,200,000 in the Federal budget for fiscal year 1998. Funds remain available for this program. States interested in obtaining funds under the program are invited to submit proposals. While only State Departments of Agriculture or other appropriate State Agencies are eligible to apply for funds, State Agencies are encouraged to involve industry organizations in the development of proposals and the conduct of projects.

DATES: Applications will be accepted through June 19, 1998.

ADDRESSES: Proposals may be sent to Dr. Larry V. Summers, FSMIP, Staff Officer, Transportation and Marketing, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, Room 4006 South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Dr. Larry V. Summers, 202) 720–2704.

SUPPLEMENTARY INFORMATION: FSMIP is authorized under Section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The program is a matching fund program designed to assist State Departments of Agriculture or other appropriate State Agencies in conducting studies or developing innovative approaches related to the marketing of agricultural products. Other organizations interested in participating in this program should contact their State Department of Agriculture's Marketing Division to discuss their proposal.

Mutually acceptable proposals are submitted by the State Agency and must be accompanied by a completed Standard Form (SF)–424 with SF–424A and SF–424B attached. FSMIP funds may not be used for advertising or, with limited exceptions, for the purchase of equipment or facilities. Guidelines may be obtained from your State Department of Agriculture or the above AMS contact.

States are encouraged to submit proposals for projects which will:

(1) Assist in identifying and expanding market opportunities for U.S. agricultural products, both domestically and internationally, through the development and market testing of new or improved products and value-adding services;

(2) Address agricultural marketing issues and concerns of particular importance to relatively small, limited-resource farms and rural enterprises; and,

(3) Encourage the development of marketing practices and technologies aimed at improving the quality of agricultural products or the sustainability of natural resources and the environment.

Proposals addressing other marketing objectives or issues also will receive consideration.

FSMIP is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.156 and subject Agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all Federally assisted programs.

Authority: 7 U.S.C. 1621–1627.

Dated: December 18, 1997.

Eileen S. Stommes,

Deputy Administrator, Transportation and Marketing.

[FR Doc. 97–33591 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Intermountain Region, Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermoutain Region to publish legal notice of all decisions subject to appeal under 36 CFR parts 215 and 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after March 1, 1996. The list of newspapers will remain in effect until October 1996 when another notice will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Donald W. Murphy, Regional Appeals Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, phone (801) 625–5274.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures 36 CFR parts 215 and 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho:

The Idaho Statesman, Boise, Idaho

For decisions made by the Regional Forester affecting National Forests in Nevada:

The Reno Gazette-Journal, Reno, Nevada

For decisions made by the Regional Forester affecting National Forests in Wyoming:

Casper Star-Tribube, Casper, Wyoming

For decisions made by the Regional Forester affecting National Forests in Utah:

Standard-Examiner, Ogden, Utah

If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in:

Standard-Examiner, Ogden, Utah

Ashley National Forest

Ashley Forest Supervisors decisions:

Vernal Express, Vernal, Utah

Vernal District Ranger decisions:

Vernal Express, Vernal, Utah

Flaming Gorge District Ranger for decisions affecting Wyoming:

Casper Star Tribune, Casper, Wyoming

Flaming Gorge District Ranger for decisions affecting Utah:

Vernal Express, Vernal, Utah

Roosevelt and Duchesne District Ranger decisions:

Uintah Basin Standard, Roosevelt, Utah

Boise National Forest

Boise Forest Supervisor decisions:

The Idaho Statesman, Boise, Idaho

Mountain Home District Ranger decisions:

The Idaho Stateman, Boise, Idaho

Boise District Ranger decisions:

The Idaho Statement, Boise, Idaho

Idaho City District Ranger decisions:

The Idaho Statesman, Boise, Idaho

Cascade District Ranger decisions:

The Advocate, Cascade, Idaho

Lowman District Ranger decisions:

The Idaho City World, Idaho City, Idaho

Emmett District Ranger decisions:

The Messenger-Index, Emmett, Idaho

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions:

Casper Star-Tribune, Casper, Wyoming

Jackson District Ranger decisions:

Casper Star-Tribune, Casper, Wyoming

Buffalo District Ranger decisions:

Casper Star-Tribune, Jackson, Wyoming

Big Piney District Ranger decisions:

Casper Star-Tribune, Jackson, Wyoming

Pinedale District Ranger decisions:

Casper Star-Tribune, Casper, Wyoming

Greys River District Ranger decisions:

Casper Star-Tribune, Casper, Wyoming

Kemmerer District Ranger decisions:

Casper Star-Tribune, Casper, Wyoming

Caribou National Forest

Caribou Forest Supervisor decisions:

Idaho State Journal, Pocatello, Idaho

Soda Springs District Ranger decisions:

Idaho State Journal, Pocatello, Idaho

Montpelier District The President. Ranger decisions:

Idaho State Journal, Pocatello, Idaho

Malad District Ranger decisions:

Idaho State Journal, Pocatello, Idaho

Pocatello District Ranger decisions:

Idaho State Journal, Pocatello, Idaho

Dixie National Forest

Dixie Forest Supervisor decisions:

The Daily Spectrum, St. George, Utah

Pine Valley District Ranger decisions:

The Daily Spectrum, St. George, Utah

Cedar City District Ranger decisions:

The Daily Spectrum, St. George, Utah

Powell District Ranger decisions:

The Daily Spectrum, St. George, Utah

Escalante District Ranger decisions:

The Daily Spectrum, St. George, Utah

Teasdale District Ranger decisions:

The Daily Spectrum, St. George, Utah

Fishlake National Forest

Fishlake Forest Supervisor decisions:

Richfield Reaper, Richfield, Utah

Loa District Ranger decisions:

Richfield Reaper, Richfield, Utah

Richfield District Ranger decisions:

Richfield Reaper, Richfield, Utah

Beaver District Ranger decisions:

Richfield Reaper, Beaver, Utah

Fillmore District Ranger decisions:

Richfield Reaper, Fillmore, Utah

Humboldt-Toiyabe National Forests

Humboldt Forest Supervisor decisions:

Elko Daily Free Press, Elko, Nevada

Toiyabe Forest Supervisor decisions:

Reno Gazette-Journal, Reno, Nevada

Sierra Ecosystem Coordination Center (SECO):

Carson District Ranger decisions:

Reno Gazette-Journal, Reno, Nevada

Bridgeport District Ranger decisions:

The Review-Herald, Mammoth Lakes, California

Spring Mountains National Recreation Area Ecosystem (SMNRAE):

Spring Mountain National Recreational Area District Ranger decisions;

Las Vegas Review Journal, Las Vegas, Nevada

Central Nevada Ecosystem (CNECO):

Austin District Ranger decisions:

Reno Gazette-Journal, Reno, Nevada

Tonopah District Ranger decisions:

Tonopah Times Bonaanza-Goldfield News, Tonopah, Nevada

Ely District Ranger decisions:

Ely Daily Times, Ely, Nevada

Northeast Nevada Ecosystem (NNECO):

Mountain City District Ranger decisions:

Elko Daily Free Press, Elko, Nevada

Ruby Mountains District Ranger decisions:

Elko Daily Free Press, Elko, Nevada

Jarbidge District Ranger decisions:

Elko Daily Free Press, Elko, Nevada

Santa Rosa District Ranger decisions:

Humboldt Sun, Winnemucca, Nevada

Manti-Lasal National Forest

Manti-Lasal Supervisor decisions:

Sun Advocate, Price, Utah

Sanpete District Ranger decisions:

The Pyramid, Mt. Pleasant, Utah

Ferron District Ranger decisions:

Emery County Progress, Castle Dale, Utah

Price District Ranger decisions:

Sun Advocate, Price, Utah

Moab District Ranger decisions:

The Times Independent, Moab, Utah

Monticello District Ranger decisions:

The San Juan Record, Monticello, Utah

Payette National Forest

Payette Forest Supervisor decisions:

Idaho Statesman, Boise, Idaho

Weiser District Ranger decisions:

Signal American, Weiser, Idaho

Council District Ranger decisions:

Council Record, Council, Idaho

New Meadows, McCall, and Krassel District Ranger decisions:

Star News, McCall, Idaho

Salmon and Challis National Forests

Salmon Forest Supervisor decisions:

The Recorder-Herald, Salmon, Idaho

Cobalt District Ranger decisions:

The Recorder-Herald, Salmon, Idaho

North Fork District Ranger decisions:

The Recorder-Herald, Salmon, Idaho

Leadore District Ranger decisions:

The Recorder-Herald, Salmon, Idaho

Salmon District Ranger decisions:

The Recorder-Herald, Salmon, Idaho

Challis Forest Supervisor decisions:

The Challis Messenger, Challis, Idaho

Middle Fork District Ranger decisions:

The Challis Messenger, Challis, Idaho

Challis District Ranger decisions:

The Challis Messenger, Challis, Idaho

Yankee Fork District Ranger decisions:

The Challis Messenger, Challis, Idaho

Lost River District Ranger decisions:

The Challis Messenger, Challis, Idaho

Sawtooth National Forest

Sawtooth Forest Supervisor decisions:

The Times News, Twin Falls, Idaho

Burley District Ranger decisions:

Ogden Standard Examiner, Ogden, Utah, for those decisions on the Burley District involving the Raft River Unit

South Idaho Press, Burley, Idaho, for decisions issued on the Idaho portions of the Burley District

Twin Falls District Ranger decisions:

The Times News, Twin Falls, Idaho

Ketchum District Ranger decisions:

Wood River Journal, Hailey, Idaho

Sawtooth National Recreation Area:

Challis Messenger, Challis, Idaho

Fairfield District Ranger decisions:

The Times News, Twin Falls, Idaho

Targhee National Forest

Targhee Forest Supervisor decisions:

The Post Register, Idaho Falls, Idaho

Dubois District Ranger decisions:

The Post Register, Idaho Falls, Idaho

Island Park District Ranger decisions:

The Post Register, Idaho Falls, Idaho

Ashton District Ranger decisions:

The Post Register, Idaho Falls, Idaho

Palisades District Ranger decisions:

The Post Register, Idaho Falls, Idaho

Teton Basin District Ranger decisions:

The Post Register, Idaho Falls, Idaho

Uinta National Forest

Uinta Forest Supervisor decisions:

The Daily Herald, Provo, Utah

Pleasant Grove District Ranger decisions:

The Daily Herald, Provo, Utah

Heber District Ranger decisions:

The Daily Herald, Provo, Utah, and *Wasatch Wave,* Heber City, Utah

Spanish Fork Ranger decisions:

The Daily Herald, Provo, Utah

Wasatch-Cache National Forest

Wasatch-Cache Forest Supervisor decisions:

Salt Lake Tribune, Salt Lake City, Utah

Salt Lake District Ranger decisions:

Salt Lake Tribune, Salt Lake City, Utah

Kamas District Ranger decisions:

Salt Lake Tribune, Salt Lake City, Utah

Evanston District Ranger decisions:

Uintah County Herald, Evanston, Wyoming

Mountain View District Ranger decisions:

Uintah County Herald, Evanston, Wyoming

Ogden District Ranger decisions:

Ogden Standard Examiner, Ogden, Utah

Logan District Ranger decisions:

Logan Herald Journal, Logan, Utah

Dated: December 11, 1997.

Jack G. Troyer,

Deputy Regional Forester.

[FR Doc. 97–33594 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Housing Preservation Grants

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. The HPG program is a grant program which provides qualified public agencies, private nonprofit organizations and other eligible entities grant funds to assist very low- and low-income homeowners repair and rehabilitate their homes in rural areas, and to assist rental property owners and cooperative housing complexes to repair and rehabilitate their units if they agree to make such units available to low- and very low-income persons. This action is taken to comply with Agency regulations found in 7 CFR part 1944, subpart N, which requires the Agency to announce the opening and closing dates for receipt of preapplications for HPG funds from eligible applicants. The intended effect of this Notice is to provide eligible organizations notice of these dates.

DATES: RHS hereby announces that it will begin receiving preapplications on December 24, 1997. The closing date for acceptance by RHS of preapplications is March 24, 1998. This period will be the only time during the current fiscal year that RHS accepts preapplications. Preapplications must be received by or postmarked on or before the closing date.

ADDRESSES: Submit preapplications to Rural Development servicing offices for the HPG program; applicants must contact their Rural Development State Office for this information. A listing of Rural Development State Offices, their addresses, and telephone numbers follows:

Rural Development State Offices

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Sterling Center Office Building, 4121 Carmichael Road, Suite 601, Montgomery, AL 36106–3683, (334) 279–3455

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 745–2176

Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8755

Arkansas State Office, 700 W. Capitol Ave., Rm. 5411, Little Rock, AR 72201–3225, (501) 324–6701

California State Office, 194 West Main Street, Suite F, Woodland, CA 95695–2915, (916) 668–2090

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (303) 236–2801 (ext. 122)

Connecticut (Served by Massachusetts State Office)

Delaware/Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4314

Florida State Office, 4440 N.W. 25th Place, PO Box 147010, Gainesville, FL 32614–7010, (352) 338–3465

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164

Guam (Served by Hawaii State Office)

Hawaii State Office, Room 311, Federal Building 154, Waianuenue Avenue, Hilo, HI 96720, (808) 933–3005

Idaho State Office, 3232 Elder Street, Boise, ID 83705, (208) 378–5627

Illinois State Office, Illini Plaza, Suite 103, 1817 South Neil Street, Champaign, IL 61820, (217) 398–5412 (ext. 256)

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3115

Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4493

Kansas State Office, 1200 SW Executive Drive, PO Box 4653, Topeka, KS 66604, (913) 271–2720

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (606) 224–7325

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7950

Maine State Office, 444 Stillwater Ave., Suite 2, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110

Maryland (Served by Delaware State Office)

Massachusetts State Office, 451 West Street, Amherst, MA 01002, (413) 253–4327

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (515) 337–6635 (ext. 1608)
Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (612) 290–3912
Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325
Missouri State Office, 601 Business Loop, 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990
Montana State Office, Unit 1, Suite B, 900 Technology Blvd., Bozeman, MT, 59715, (406) 585–2515
Nebraska State Office, Federal Building, room 308, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5557.
Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–5405, (702) 887–1222.
New Hampshire (Served by Vermont State Office)
New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3630.
New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944.
New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419.
North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2062.
North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 250–4771.
Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 469–5165.
Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070.
Oregon State Office 101 SW Main, Suite 1410, Portland, OR 97204–2333, (503) 414–3350.
Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 782–4574.
Puerto Rico State Office, New San Juan Office Bldg., Room 501, 159 Carlos E. Chardon Street, Hato Rey, PR 00918–5481, (809) 766–5095 Ext. 256.
Rhode Island (Served by Massachusetts State Office)
South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5690.
South Dakota State Office, Federal Building, Room 308, 200 Fourth Street, SW, Huron, SD 57350, (605) 352–1132.
Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1071, (615) 783–1375.
Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (817) 774–1305.
Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 5438, Salt Lake City, UT 84138, (801) 524–3242.
Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6020.
Virgin Islands (Served by Vermont State Office)
Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1582.
Washington State Office, 1835 Black Lake Blvd. SW., Suite B, Olympia, WA 98512–5717, (360) 704–7707.
Western Pacific Territories (Served by Hawaii State Office)
West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 291–4793.
Wisconsin State Office, 4949 Kirschiling Court, Stevens Point, WI 54481, (715) 345–7620.
Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315.

FOR FURTHER INFORMATION CONTACT: Sue M. Harris-Green, Senior Loan Officer, Multi-Family Housing Processing Division, RHS, USDA, Stop 0781, Room 5337, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 720–1606. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: 7 CFR part 1944, subpart N provides details on what information must be contained in the preapplication packages. Entities wishing to apply for assistance should contact the Rural Development State Office to receive further information and copies of the preapplication package. Eligible entities for these competitively awarded grants include State and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.433, Rural Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V). Applicants are referred to 7 CFR §§ 1944.674 and 1944.676 (d) and (e) for specific guidance on these requirements relative to the HPG program.

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established; although, based on fiscal year (FY) 1998 funding availability, the Agency anticipates that the average grant will be $75,000 for a 1-year proposal. For FY 98, $10,820,000 is available and has been distributed under a formula allocation to States pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' Decisions on funding will be based on the preapplications, and notices of action on the preapplications should be made no earlier than 66 days prior to the closing date.

December 15, 1997.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 97–33501 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Interest Rate for FY 1998 RUS Cost-of-Money Loans and Maximum Amount of an RUS Cost-of-Money or Rural Telephone Bank Loan for FY 1998

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Utilities Service (RUS) announces that interest rates on cost-of-money loans approved during fiscal year (FY) 1998 may exceed the 7 percent per year statutory limit, and also announces the maximum loan amount that may be made available to a single borrower in FY 1998.

FOR FURTHER INFORMATION CONTACT: Ken B. Chandler, Acting Assistant Administrator-Telecommunications Program, Rural Utilities Service, STOP 1590, Room 4056, South Building, 1400 Independence Avenue, SW., Washington, DC 20250–1590. Telephone (202) 720–9554, Facsimile (202) 720–0810.

SUPPLEMENTARY INFORMATION: Notice is hereby given that under Title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1998 (Appropriations Act of 1998) (Pub. L. 105–86, November 18, 1997), the interest rate for RUS cost-of-money loans approved during FY 1998 may exceed the 7 percent per year ceiling established by Pub. L. 103–129 (see 7 CFR 1735.31(c)(1)). The Appropriations

Act of 1998 removes the 7 percent interest rate ceiling for loans made during FY 1998 only (October 1, 1997 to September 30, 1998).

Further, in accordance with 7 CFR 1610.6(d) and 1735.31(d), RUS has determined the maximum amount of an application for an RUS cost-of-money or Rural Telephone Bank loan that will be considered for funding during FY 1998 as $30,000,000 and $17,500,000, respectively.

Dated: December 16, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–33566 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Distance Learning and Telemedicine Loan and Grant Program

AGENCY: Rural Utilities Service, USDA.

ACTION: FY 1997 DLT applications receiving financial assistance.

SUMMARY: On June 13, 1997, in the **Federal Register** (62 FR 32434) the Rural Utilities Service (RUS) announced availability of fiscal year 1997 funds for the Distance Learning and Telemedicine (DLT) Loan and Grant Program to promote modern telecommunication interconnectivity to educational and medical facilities in rural areas. By providing matching grants and loans for information infrastructure projects, this program will help develop a nationally integrated public network accessible to rural as well as urban areas. This Notice announces the applications receiving financial assistance in response to the June 13, 1997, solicitation (7 CFR 1703.113).

FOR FURTHER INFORMATION CONTACT: Jonathan Claffey, Acting Director, Advanced Telecommunications Services Staff, Rural Utilities Service, Telephone: (202) 720–0530. Fax: (202) 720–2734.

SUPPLEMENTARY INFORMATION: A total of 50 applications from 26 states will receive financial assistance for distance learning and telemedicine projects. The total financial assistance provided by the DLT program for these projects in fiscal year 1997 is $10.2 million in grants and loans.

DISTANCE LEARNING AND TELEMEDICINE PROGRAM—1997 RECIPIENTS

State	Type*	Project name
		100% Grant
AK	M	Bristol Bay Area Health Corporation.
AZ	E	Tohono O'odham Nation.
CA	E	School of Public Health, UCLA.
CA	E	Visible Light, Inc. d/b/a Rain Network.
HI	M	Kauai Veterans Memorial Hospital.
KS	M	Horton Health Foundation.
LA	M	Tri-Ward General Hospital.
LA	M	Lower Cameron Hospital Service District.
LA	E	Northwestern State University of Louisiana.
LA	E	South Central Planning and Development Commission.
MN	E	Board of Regents of the U. & C.C. of Minnesota.
MO	M	Boone Hospital Center.
MS	M	Delta Rural Health Network of Mississippi.
MS	E	Mid-Mississippi Delta Consortium.
NC	E	North Carolina Technological Development Authority.
NC	E	University of North Carolina at Wilmington.
NM	E	Northern New Mexico Community College.
NY	E	Cattaragus-Allegany-Erie-Wyoming BOCES.
OK	M	Choctaw Nation Indian Hospital.
OK	M	Holdenville General Hospital.
OK	E	Kiamichi Valley Distance Learning.
OR	E	Kalamath Community Development Corporation.
SD	M	Fund for the Advancement of Med. Education & Research.
TX	E	Austwell-Tivoli Independent School District.
TX	M	Chaparral Health Clinic.
TX	E	Fort Hancock Independent School District.
TX	E	Morton Independent School District.
TX	E	Panola College.
TX	E	Southwest Texas Junior College.
		Combination Grant/Loan
CA	E	State Center Community College District.
IL	M	Mason Hospital District.
IN	M	The Midwest Center for Rural Health (MCRH).
KY	M	Appalachian Regional Healthcare, Inc.
KY	M	Murray-Calloway County Hospital.
LA	E	Ascension Parish Library.
MI	E	Cheboygan Area Schools.
MI	M	Scheurer Hospital.
MN	M	First Care Medical Services.
NC	E	Mountain Area Health Education Foundation, Inc.
NC	E	Piedmont Community College.
NE	M	Bergan Mercy Foundation.
NM	E	Des Moines Municipal School.
NV	E	Nye County School District.

DISTANCE LEARNING AND TELEMEDICINE PROGRAM—1997 RECIPIENTS—Continued

State	Type*	Project name
OK	E	Burlington Public School.
PA	E	Line Mountain School District.
TN	M	The University of Tennessee, Memphis.**
WA	E	Grays Harbor College.
WA	M	Lincoln County Public Hospital District #3.
WV	M	Prestera Center for Mental Health Services, Inc.
WV	M	Princeton Community Hospital Association.

* E–Educational, M—Medical.
** Non-Federal funding for loan portion—loan amount not included in totals.

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*; Pub. L. 103–354, 108 Stat 3178 (7 U.S.C. 6941 *et seq.*).

Dated: December 16, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–33567 Filed 12–23–97; 8:45 am]

BILLING CODE 3410–15–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Access Board Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, D.C. on Monday, Tuesday, and Wednesday, January 12–14, 1998 at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, January 12, 1998

9:00 a.m.–Noon and 1:30–3:30 p.m. Committee of the Whole—ABA Guidelines (Closed Meeting).
3:45 p.m.–5:30 p.m. Committee of the Whole—ADAAG Revision NPRM (Closed Meeting).

Tuesday, January 13, 1998

9:00 a.m.–Noon. Committee of the Whole—Recreation Guidelines NPRM (Closed Meeting).
1:30 p.m.–3:00 p.m. Planning and Budget Committee.
3:15 p.m.–5:00 p.m. Technical Programs Committee.

Wednesday, January 14, 1998

9:00 a.m.–Noon. Committee of the Whole—Detectable Warnings NPRM and Over-the-Road Buses NPRM (Closed Meeting).
1:30 a.m.–2:30 p.m. Executive Committee.
2:45 p.m.–4:00 p.m. Board Meeting.

ADDRESSES: The meetings will be held at: Grand Hyatt Washington, 1000 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items. Specific voting items are noted next to each committee report.

Open Meeting

- Executive Director's Report.
- Approval of the Minutes of the September 10, 1997 Board Meeting.
- Planning and Budget Committee Report—Fiscal Year 1998 Spending Plan, Fiscal Year 1999 Budget Status, and Agency Goals—Progress Report.
- Technical Programs Committee Report—Status Reports on Fiscal Years 1996 and 1997 Research Projects, Report on the Review of Anthropometrics Research Project, and Status of Technical Assistance Materials.
- Executive Committee Report—Committee and Board Calendars, Nominating Committee Charter, Public Hearing on Play Areas NPRM, and Annual Public Event.

Closed Meeting

- Committee of the Whole Report—ABA Guidelines.
- Committee of the Whole Report—ADAAG Revision NPRM.
- Committee of the Whole Report—Recreation Guidelines NPRM.
- Committee of the Whole Report—Detectable Warnings NPRM (voting).
- Committee of the Whole Report—Over-the-Road Buses NPRM.

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 97–33624 Filed 12–23–97; 8:45 am]

BILLING CODE 8150–01–P

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations, and Additional Releases

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on December 15, 1997, 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: Kevin G. Tiernan, Assassination Records Review Board, Second Floor, Washington, D.C. 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. § 2107.9(c)(4)(A) (1992). On December 15, 1997, 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.

Notice of Formal Determinations

For each document, the number of postponements sustained immediately follows the record identification number, followed, where appropriate, by the date the document is scheduled to be released or re-reviewed.

FBI Documents: Postponed in Part

124–10194–10222; 3; 10/2017
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Notice of Additional Releases

After consultation with appropriate Federal agencies, the Review Board announces that the following Federal Bureau of Investigation records are now being opened in full:

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124–90021–10040; 124–90021–10042; 124–90021–10053; 124–90021–10056; 124–90021–10057; 124–90021–10058; 124–90021–10072; 124–90021–10074; 124–90021–10075; 124–90021–10076

After consultation with appropriate Federal agencies, the Review Board announces that the following House Select Committee on Assassinations records are now being opened in full:

180–10065–10351; 180–10066–10449; 180–10067–10365; 180–10067–10417; 180–10067–10431; 180–10070–10420; 180–10071–10075; 180–10072–10081; 180–10072–10430; 180–10072–10433; 180–10072–10439; 180–10072–10462; 180–10073–10190; 180–10075–10118; 180–10075–10126; 180–10075–10127; 180–10075–10129; 180–10075–10152; 180–10076–10241; 180–10076–10478; 180–10077–10286; 180–10077–10445; 180–10078–10004; 180–10078–10301; 180–10080–10012; 180–10080–10296; 180–10080–10417; 180–10080–10470; 180–10082–10032; 180–10082–10076; 180–10082–10150; 180–10082–10193; 180–10082–10309; 180–10082–10353; 180–10084–10179; 180–10084–10180; 180–10085–10151; 180–10085–10152; 180–10085–10154; 180–10085–10202; 180–10085–10214; 180–10085–10216; 180–10087–10093; 180–10087–10302; 180–10088–10137; 180–10088–10149; 180–10088–10203; 180–10088–10219; 180–10088–10265; 180–10088–10293; 180–10089–10034; 180–10089–10035; 180–10089–10043; 180–10090–10205; 180–10090–10226; 180–10091–10194; 180–10093–10162; 180–10094–10189; 180–10095–10375; 180–10096–10416; 180–10096–10448; 180–10097–10473; 180–10100–10008; 180–10100–10018; 180–10101–10115; 180–10103–10337; 180–10103–10498; 180–10104–10224; 180–10105–10343; 180–10105–10344; 180–10105–10345; 180–10105–10346; 180–10105–10347; 180–10105–10348; 180–10105–10349; 180–10105–10350; 180–10105–10351; 180–10105–10367; 180–10106–10026; 180–10106–10027; 180–10106–10415; 180–10107–10480; 180–10107–10484; 180–10107–10488; 180–10107–10489; 180–10107–10493; 180–10107–10496; 180–10108–10116; 180–10108–10305; 180–10108–10327; 180–10108–10386; 180–10108–10387; 180–10108–10389; 180–10109–10449; 180–10112–10133; 180–10114–10143; 180–10114–10196; 180–10114–10259; 180–10115–10155; 180–10115–10156; 180–10116–10169; 180–10116–10171; 180–10116–10172; 180–10117–10208; 180–10117–10209; 180–10117–10210; 180–10117–10211; 180–10117–10212; 180–10117–10213; 180–10117–10214; 180–10117–10215; 180–10117–10216; 180–10117–10217; 180–10117–10227; 180–10119–10229; 180–10121–10010; 180–10131–10137

After consultation with appropriate Federal agencies, the Review Board announces that the following United States Army records are now being opened in full:

198–10004–10021; 198–10004–10022; 198–10004–10024; 198–10004–10025; 198–10004–10030; 198–10004–10031; 198–10004–10033; 198–10004–10034; 198–10004–10035; 198–10004–10036; 198–

10004–10037; 198–10004–10041; 198–10004–10042; 198–10004–10043; 198–10004–10044; 198–10004–10045; 198–10004–10046; 198–10004–10047; 198–10004–10048; 198–10004–10049; 198–10004–10050; 198–10004–10051; 198–10004–10052; 198–10004–10054; 198–10004–10055; 198–10004–10056; 198–10004–10058; 198–10004–10059; 198–10004–10062; 198–10004–10064; 198–10004–10065; 198–10004–10066; 198–10004–10067; 198–10004–10068; 198–10004–10069; 198–10004–10070; 198–10004–10071; 198–10004–10072; 198–10004–10073; 198–10004–10074; 198–10004–10077; 198–10004–10078; 198–10004–10079; 198–10004–10081; 198–10004–10082; 198–10004–10083; 198–10004–10084; 198–10004–10085; 198–10004–10086; 198–10004–10087; 198–10004–10088; 198–10004–10090; 198–10004–10091; 198–10004–10093; 198–10004–10094; 198–10004–10095; 198–10004–10096; 198–10004–10098; 198–10004–10099; 198–10004–10101; 198–10004–10102; 198–10004–10103; 198–10004–10104; 198–10004–10105; 198–10004–10107; 198–10004–10108; 198–10004–10111; 198–10004–10113; 198–10004–10114; 198–10004–10115; 198–10004–10116; 198–10004–10118; 198–10004–10119; 198–10004–10120; 198–10004–10121; 198–10004–10122; 198–10004–10123; 198–10004–10124; 198–10004–10125; 198–10004–10127; 198–10004–10128; 198–10004–10129; 198–10004–10130; 198–10004–10132; 198–10004–10133; 198–10004–10134; 198–10004–10136; 198–10004–10137; 198–10004–10138; 198–10004–10139; 198–10004–10140; 198–10004–10141; 198–10004–10142; 198–10004–10145; 198–10004–10146; 198–10004–10149; 198–10004–10151; 198–10004–10152; 198–10004–10154; 198–10004–10155; 198–10004–10158; 198–10004–10159; 198–10004–10160; 198–10004–10161; 198–10004–10162; 198–10004–10163; 198–10004–10164; 198–10004–10165; 198–10004–10166; 198–10004–10167; 198–10004–10169; 198–10004–10170; 198–10004–10171; 198–10004–10172; 198–10004–10173; 198–10004–10174; 198–10004–10175; 198–10004–10176; 198–10004–10177; 198–10004–10178; 198–10004–10179; 198–10004–10180; 198–10004–10181; 198–10004–10182; 198–10004–10183; 198–10004–10184; 198–10004–10185; 198–10004–10186; 198–10004–10187; 198–10004–10188; 198–10004–10189; 198–10004–10190; 198–10004–10191; 198–10004–10192; 198–10004–10193; 198–10004–10194; 198–10004–10197; 198–10004–10198; 198–10004–10201; 198–10004–10202; 198–10005–10001; 198–10005–10002; 198–10005–10003; 198–10005–10004; 198–10005–10005; 198–10005–10006; 198–10005–10007; 198–10005–10008; 198–10005–10009; 198–10005–10010; 198–10005–10011

After consultation with appropriate Federal agencies, the Review Board announces that the following Joint Chiefs of Staff records are now being opened in full:

202–10002–10000; 202–10002–10001; 202–10002–10002; 202–10002–10003; 202–10002–10004; 202–10002–10013; 202–10002–10027; 202–10002–10030; 202–10002–10048; 202–10002–10049; 202–10002–10050; 202–10002–10051; 202–10002–10052; 202–10002–10053; 202–10002–10054; 202–10002–10055; 202–10002–10056; 202–10002–10058; 202–10002–10059; 202–10002–10060; 202–10002–10061; 202–10002–10062; 202–10002–10063; 202–10002–10064; 202–10002–10067; 202–10002–10068; 202–10002–10069; 202–10002–10070; 202–10002–10071; 202–10002–10072; 202–10002–10073; 202–10002–10074; 202–10002–10075; 202–10002–10076; 202–10002–10077; 202–10002–10080; 202–10002–10081; 202–10002–10082; 202–10002–10085; 202–10002–10087; 202–10002–10089; 202–10002–10090; 202–10002–10091; 202–10002–10092; 202–10002–10093; 202–10002–10095; 202–10002–10096; 202–10002–10098; 202–10002–10099; 202–10002–10109; 202–10002–10110; 202–10002–10111; 202–10002–10113.

Dated: December 19, 1997.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 97–33529 Filed 12–23–97; 8:45 am]

BILLING CODE 6118–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New York Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:30 p.m. on Thursday, January 22, 1998, at the Graduate School and University Center of City University of New York, President's Conference Room, 18th Floor, 33 West 42nd Street, New York, NY 10011. The purpose of the meeting is to discuss the police-community relations briefing and the section 8 housing report.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson M.D. Taracido, 212–645–8999, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 16, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–33559 Filed 12–23–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:45 p.m. on Thursday, January 15, 1998, at the General Services Administration, Wannamaker Building, Room 854, 100 Penn Square East, Philadelphia, Pennsylvania 19107. The purpose of the meeting is to provide an orientation session for new members and to plan a future briefing on barriers confronting women and minority business owners.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Sieglinde Shapiro, 215–204–6749, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 15, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–33558 Filed 12–23–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on Saturday, January 17, 1998, at the Hitching Post Inn, 1700 West Lincolnway, Cheyenne, Wyoming 82001. The purpose of the

meeting is to brief the Committee on Commission and regional programs and approve plans for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 15, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–33557 Filed 12–23–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–817]

Certain Cut-to-Length Carbon Steel Plate from Brazil: Antidumping Duty Administrative Review: Extension of Time Limit

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

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the final results of the antidumping duty administrative review of Certain Cut-to-Length Carbon Steel Plate from Brazil. This review covers the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.; telephone (202) 482–0414 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Due to the complexity of issues involved in this case, it is not practicable to complete this review within the original time limit. The Department is extending the time limit for completion of the final results until March 8, 1998, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994. See memorandum to Robert S. LaRussa from Joseph A. Spetrini regarding the extension of the case deadline, dated December 16, 1997.

This extension is in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: December 16, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–33605 Filed 12–23–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Amended Final Results of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan (A–588–028)

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

ACTION: Amended final results of antidumping duty administrative order.

SUMMARY: On November 10, 1997, the Department of Commerce published the final results of its administrative review of the antidumping duty order on roller chain, other than bicycle, from Japan. This review covered six manufacturers/exporters of roller chain in Japan during the period April 1, 1995, through March 31, 1996: (1) Daido Kogyo Co., Ltd. (Daido); (2) Enuma Chain Mfg. Co., Ltd. (Enuma); (3) Izumi Chain Manufacturing Co., Ltd. (Izumi); (4) Hitachi Metals Techno Ltd. (Hitachi); (5) Pulton Chain Co., Ltd. (Pulton); and (6) R.K. Excel Co., Ltd. (RK) (collectively, the respondents).

Interested parties submitted ministerial error allegations with respect to the final results of administrative review for Daido and Enuma on November 17, 1997. Based on the correction of certain ministerial errors made in the final results of review, we are amending our final results of review with respect to Daido and Enuma.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Jack Dulberger, AD/CVD Enforcement Group II, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4793 and (202) 482–5505, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

The Department of Commerce (the Department) has now amended the final results of this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the regulations set forth at 19 CFR part 353 (1997).

Scope of Review

The merchandise subject to this review is roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Background

On November 10, 1997, we published in the **Federal Register** our notice of final results of administrative review of the antidumping duty order on roller chain, other than bicycle, from Japan (Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, from Japan (62 FR

60472, November 10, 1997) (Roller Chain Final FR Notice)).

On November 17, 1997, two of the respondents in the above-referenced review, Enuma and Daido, submitted timely written allegations that the Department made certain ministerial errors in the above-referenced administrative review. Enuma alleged two ministerial errors with respect to the following: (1) unmatched identical models within the 90–60 day rule period and (2) a data input error by respondent in the sales database. Daido alleged five ministerial errors with respect to the following three issues: (1) unmatched identical models within the 90–60 day rule period, (2) unmatched U.S. sales with identical sales in the home market database, and (3) data input errors by respondent in the sales database. Petitioner did not allege the existence of ministerial errors, nor has petitioner commented on respondent's allegations. For a complete discussion of the allegations, see the Department's December 17, 1997, Decision Memorandum Re: Ministerial Error Allegation in the Antidumping Administrative Review on Roller Chain, Other than Bicycle, from Japan (95–96).

As discussed below, in accordance with 19 CFR 353.28(d), we have determined that certain ministerial errors were made in our margin calculations for Enuma and Daido.

Alleged Ministerial Errors

Enuma

Issue 1: Unmatched U.S. Sales—Computer Searching Error

Enuma states that the Department incorrectly identified three U.S. sales as not having a home market match within the comparison period (*i.e.,* the 90–60 day period). Enuma contends that the printout of its November 15, 1996, sales tape, which the Department used in its final results calculations, shows home market sales of the identical model, during the 90–60 day period for these three sales. Enuma requests that the Department correct this error and to review its program to determine if any other currently designated unmatched U.S. sales have matches and to revise the dumping margins accordingly.

DOC Position: We agree with Enuma and have corrected this ministerial error. After review of Enuma's margin program, we found that we inadvertently failed to include a step in the product matching section of the program. This resulted in a failure to properly identify all home market sales of the identical model during the 90–60 day window period. Correction of the margin program resulted in matching two of the three previously unmatched U.S. sales identified by Enuma in its November 17, 1997, clerical error allegation and an additional unmatched U.S. sale not identified by Enuma. The third U.S. sale identified by Enuma could not be matched to the home market sale identified by Enuma because the home market sale was a sale to an affiliated customer which was determined not to be at arm's length and was subsequently excluded from our analysis. *See Roller Chain Final FR Notice.*

Issue 2: Unmatched U.S. Sales—Computer Input Error

In two instances, Enuma states that it inadvertently assigned slightly different control numbers for the same products on its home market and U.S. sales tapes. In the first instance, Enuma states that an extra digit was mistakenly added to the end of a home market control number. In the other, Enuma states that an extra digit was added to the end of a U.S. control number. As a result, Enuma argues that U.S. sales that should have had identical home market matches went unmatched. Enuma requests that we revise the control numbers for those two models so that the control numbers on both the home market and U.S. sales tapes are identical.

DOC Position: Section 751(h) of the Tariff Act of 1930, as amended (the Act), authorizes the Department to establish procedures for the correction of ministerial errors in final determinations. Section 751(h) provides that the term ''ministerial'' error includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

The Department's implementing regulations at 19 CFR 353.28 establish which errors the Department considers ministerial. A ''ministerial error'' is defined under 19 CFR 353.28 as: an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial.

The Department interprets the authority granted to it by Section 751(h) of the Act as allowing the Department to make post-final results corrections only for its *own* (''ministerial'') errors. *See* Preamble of 19 CFR § 351.224 (emphasis in original). Therefore, the Department does not believe that it may make corrections after final results of administrative review for errors committed by a party to the proceeding. Consequently, we made no revision to Enuma's margin calculation with regard to Enuma's alleged error.

Daido

Issue 1: Unmatched U.S. Sales—Computer Searching Error

Daido states that the Department incorrectly applied the 90–60 day window in its attempt to match U.S. and home market sales of identical or similar merchandise within the contemporaneous time period. Specifically, Daido states that the Department only applied the 90–60 day rule in a forward direction (*i.e.,* 60 days forward), but did not search for home market sales 90 days prior to the date of the U.S. sale. As a result, Daido maintains that numerous sales were designated as unmatched U.S. sales.

DOC Position: We agree with Daido and have corrected this ministerial error. After review of Daido's margin program, we found that we inadvertently failed to include a step in the product matching section of the program. This resulted in a failure to properly search for home market sales 90 days prior to the date of the U.S. sale. Correcting the margin program resulted in matching previously unmatched U.S. sales as identified by Daido in its November 17, 1997, clerical error allegation.

Issue 2: Unmatched U.S. Sales with Identical Sales in the Home Market Database

Daido states that its home market portion of its questionnaire response contained two matching control number fields—one for CEP sales matching purposes and another for EP sales matching purposes. Daido claims that it was necessary to report two control number fields in the database because, depending on the type of transaction (*i.e.,* CEP or EP), there were different codes applied to identical merchandise. Daido states that the Department correctly matched CEP sales against sales with an identical control number in the home market control number field corresponding to CEP sales. However, Daido argues that, the Department failed to match EP sales with an identical control number in the home market control number field corresponding to EP sales. Daido claims that this failure resulted in the Department designating these sales as unmatched.

DOC Position: We agree with Daido and have corrected this ministerial error. After review of Daido's margin

program, we found that we inadvertently failed to include a step in the product matching section of the program. This resulted in a failure to properly search for identical control numbers in both of the home market control number fields for a given U.S. sale. Correcting the margin program resulted in matching previously unmatched U.S. sales as identified by Daido in its November 17, 1997, clerical error allegation.

Issue 3: Unmatched U.S. Sales—Computer Input Error by Respondent

Daido states that, in three instances, it inadvertently assigned slightly different control numbers for the same products on its home market and U.S. sales tapes. Specifically, in the first instance, Daido states that it made home market sales of a model identical to one sold in the United States. However, Daido states that although the digits in the control number are exactly the same in the U.S. and home market sales tapes, it inadvertently coded the home market model with a space in the middle. In the second instance, Daido claims that an extra digit was mistakenly added to the end of a home market control number. In the final instance, Daido maintains that although for one model the control number in the U.S. sales listing differs from the control number in the home market sales listing by one digit (*i.e.*, the use of a ''C'' in the home market and a ''D'' in the United States), the products are identical. As a result of these three errors, certain U.S. sales went unmatched. Daido requests that we revise the matching control numbers in the three instances listed above so that the control numbers on both the home market and U.S. sales tapes are identical.

DOC Position: The Department does not believe that it may make corrections after final results of administrative review for errors committed by a party to the proceeding. (*See* Enuma issue number 2). Consequently, we made no revision to Daido's margin calculation with regard to these alleged errors.

Amended Final Results

As a result of our correction of the ministerial errors, we have determined the following amended margins exist for Enuma and Daido for the period April 1, 1995 through March 31, 1996:

Manufacturer/exporter	Percentage*
Daido	3.09
Enuma	1.55

*Amended Weighted-Average Margin

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for each reviewed company named above will be the rate as stated above; (2) for previously investigated or reviewed 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, 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 review, the cash deposit rate for all other manufacturers or exporters will be 15.92 percent, the All Others rate based on the first review conducted by the Department in which a ''new shipper'' rate was established in the final results of antidumping administrative review (48 FR 51801, November 14, 1983).

This notice serves as the 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 order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

These amended final results of administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and 19 CFR 353.28(c).

Dated: December 17, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–33606 Filed 12–23–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by 13 February 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Hq DAO ODCSPER (DAPE–PRO) ATTN: Mr. Robbie Robinson, 4000 Defense Pentagon, Washington, DC 20301–0300.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 614–4766.

Title, Associated Form, and OMB Control Number: Repatriation Processing Center Processing Sheet, DD Form 2585, OMB Number 0704–0334.

Needs and Uses: This information collection is necessary for personnel accountability of all evacuees,

regardless of nationality, who are processed through designated Repatriation Centers throughout the United States. The information obtained from the DD Form 2585 is entered into an automated system; a series of reports are accessible to DoD Components, Federal and State Agencies, and Red Cross as required.

Affected Public: Individuals or households, Federal Government; State and local governments; not-for-profit institutions.

Annual Burden Hours: 1,667.

Number of Respondents: 5,000.

Responses Per Respondent: One.

Average Burden per Response: 20 Minutes.

Frequency: One-time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Executive Order 12636 (Assignment of Emergency Preparedness Responsiblitis) assigns Federal departments and agencies responsibilities during emergency situations. In its supporting role to the Departments of State and Health and Human Services (DHHS), the Department of Defense will assist in planning for the protection, evacuation and repatriation of U.S. citizens in threatened areas overseas. The DD Form 2585, Repatriation Processing Center Processing Sheet, has numerous functions, but is primarily used for personnelaccountability of all evacuees who process through designated Repatriation Centers. During processing, evacuees are provided emergency human services, including food, clothing lodging, family reunification, social services and financial assistance through federal entitlements, loans, or emergency aid organizations. The information, once collected, is input into the Repatriation Automated Accounting and Reporting System, and available to designated offices throughout Departments of Defense, State, Health and Human Services, the American Red Cross, and State government emergency planning offices for operational inquiries and reporting and future planning purposes.

Dated: December 18, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–33541 Filed 12–23–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force In-Progress A–76 Cost Comparisons and Direct Conversions (As of October 1, 1997)

The Force is conducting the following cost comparisons direct conversions in accordance with OMB Circular A–76, Performance of Commercial Activities.

Installation	State	Cost comparison function(s)	Total announced authorizations	Public announcement date	Solicitation scheduled for
Cost Comparisons					
EIELSON AFB	AK	MISC SERVICES	11	11/17/95	07/07/98
EIELSON AFB	AK	ADMIN TELEPHONE PBX	10	10/18/96	07/01/98
ELMENDORF AFB	AK	POWER PRODUCTION	36	09/22/95	06/15/97
ELMENDORF AFB	AK	MILITARY FAM HSG MGMT	22	09/19/96	02/02/98
ELMENDORF AFB	AK	ADMIN TELEPHONE PBX	16	07/09/97	02/01/98
EDWARDS AFB	CA	BASE SUPPLY	327	05/02/96	05/12/97
LOS ANGELES AFS	CA	COMMUNICATION FUNCTIONS	13	07/01/96	04/30/97
LOS ANGELES AFS	CA	EDUCATION SERVICES	28	07/01/96	07/01/97
LOS ANGELES AFS	CA	COMM O&M FUNCTIONS	85	07/01/97	07/30/98
LOS ANGELES AFS	CA	HOUSING MANAGEMENT	10	07/01/97	07/30/98
LOS ANGELES AFS	CA	SERVICES ACTIVITIES	8	07/01/97	07/30/98
MARCH AFB	CA	AIRFIELD OPS & WEATHER	41	06/13/96	12/30/98
MARCH AFB	CA	TRANSIENT AIRCRAFT MAINT	0	06/13/96	08/30/97
MARCH AFB	CA	BASE OPERATING SUPPORT	237	06/13/96	02/08/99
ONIZUKA AFS	CA	UTILITIES PLANT	25	05/06/96	11/01/97
TRAVIS AFB	CA	MIL FAM HSG MAINT	38	05/05/97	06/25/97
VANDENBERG AFB	CA	BASE OPERATING SUPPORT	217	07/29/96	10/30/97
VANDENBERG AFB	CA	STRUCTURAL MAINTENANCE	32	05/06/96	10/30/97
VANDENBERG AFB	CA	CE MATERIAL ACQUISITION	12	05/06/96	10/30/97
VANDENBERG AFB	CA	HOUSING MANAGEMENT	14	07/29/96	11/01/97
VANDENBERG AFB	CA	CIVIL ENGINEERING	5	07/29/96	11/01/97
BUCKLEY ANGB	CO	AIRFIELD MANAGEMENT	37	03/22/95	01/01/98
FALCON AFB	CO	UTILITIES PLANT	22	05/06/96	11/01/97
PETERSON AFB	CO	BASE OPERATING SUPPORT	179	07/29/96	07/03/97
PETERSON AFB	CO	CE MATERIAL ACQUISITION	8	07/29/96	01/09/98
USAF ACADEMY	CO	MESS ATTENDANTS	170	03/10/97	11/03/97
DOVER AFB	DE	TRANS ACFT MAINT/AGE	24	09/05/97	06/02/98
EGLIN AFB	FL	CIVIL ENGINEERING	96	12/03/96	04/15/98
HOMESTEAD AFB	FL	AIRFIELD OPS & WEATHER	25	06/13/96	04/13/99
HOMESTEAD AFB	FL	BASE OPERATING SUPPORT	149	06/13/96	06/10/99
HURLBURT COM FL	FL	GROUNDS MAINTENANCE	11	08/08/96	07/09/97
HURLBURT COM FL	FL	TRANSIENT AIRCRAFT MAINT	11	08/08/96	06/09/97
HURLBURT COM FL	FL	ENVIROMENTAL	13	09/23/97	07/20/98
PATRICK AFB	FL	BASE OPERATING SUPPORT	148	07/29/96	11/15/97
PATRICK AFB	FL	HOUSING MANAGEMENT	7	07/29/96	11/01/97
DOBBINS AFB	GA	CONTROL TOWER OPERATIONS	33	06/13/96	07/13/97
DOBBINS AFB	GA	COMMUNICATION FUNCTIONS	0	06/13/96	07/13/97
DOBBINS AFB	GA	WEATHER SERVICES	0	06/13/96	07/13/97
DOBBINS AFB	GA	BASE OPERATING SUPPORT	127	06/13/96	07/13/97
ROBINS AFB	GA	AUDIOVISUAL	42	05/02/96	03/18/97

Installation	State	Cost comparison function(s)	Total announced authorizations	Public announcement date	Solicitation scheduled for
ROBINS AFB	GA	MIL FAM HSG MAINT	12	05/02/96	05/09/97
ROBINS AFB	GA	EDUCATION SERVICES	29	02/28/97	12/15/97
RAMSTEIN AB	GERMY	MESS ATTENDANTS	33	04/02/96	08/22/97
RAMSTEIN AB	GERMY	MIL FAM HSG MAINT	129	06/19/97	03/01/98
RAMSTEIN AB	GERMY	PMEL	79	05/06/97	01/01/98
SPANGDAHLEM AB	GERMY	MESS ATTENDANTS	16	04/02/96	08/22/97
ANDERSEN AFB	GUAM	ADMIN TELEPHONE PBX	10	07/09/97	10/01/98
HICKAM AFB	HI	BASE OPERATING SUPPORT	528	03/11/97	10/30/97
SCOTT AFB	IL	BASE SUPPLY	106	06/03/97	08/28/98
GRISSOM ARB	IN	AIRFIELD OPS & WEATHER	35	06/13/96	02/11/98
GRISSOM ARB	IN	TRANSIENT AIRCRAFT MAINT	0	06/13/96	09/28/97
GRISSOM ARB	IN	BASE OPERATING SUPPORT	170	06/13/96	10/10/98
NEW ORLEANS NAS	LA	BASE OPERATING SUPPORT	66	06/13/96	08/10/99
HANSCOM AFB	MS	AUDIOVISUAL	19	05/02/96	02/28/97
HANSCOM AFB	MS	VEHICLE O&M	64	05/02/96	02/28/97
HANSCOM AFB	MS	LABORATORY SPT SERVICES	14	05/02/96	08/06/97
HANSCOM AFB	MS	COMMUNICATION FUNCTIONS	93	02/28/97	12/15/97
HANSCOM AFB	MS	DATA PROCESSING	18	02/28/97	12/15/97
WESTOVER AFB	MS	CONTROL TOWER OPERATIONS	19	06/13/96	08/31/97
WESTOVER AFB	MS	WEATHER SERVICES	0	06/13/96	08/31/97
WESTOVER AFB	MS	BASE OPERATING SUPPORT	210	06/13/96	02/08/98
MINN/ST PAUL	MN	COMMUNICATION FUNCTIONS	0	06/13/96	11/13/97
MINN/ST PAUL	MN	BASE OPERATING SUPPORT	104	06/13/96	04/10/98
COLUMBUS AFB	MS	BASE OPERATING SUPPORT	341	05/24/93	07/18/96
KEESLER AFB	MS	TECH TRNG CTR EQ MAINT	253	06/13/96	08/25/97
ANDREWS AFB	MD	ACFT MAINT & SUPPLY	702	07/25/97	12/21/98
MALMSTROM AFB	MT	BASE SUPPLY	150	05/06/96	11/03/97
MULTIPLE INSTLNS	MULT	TECH TNG-ELECT PRIN TNG	157	12/03/96	09/12/97
MULTIPLE INSTLNS	MULT	ADMIN SWITCHBOARD	59	06/19/97	03/01/98
MULTIPLE INSTLNS	MULT	GENERAL LIBRARY	19	07/29/97	04/01/98
McGUIRE AFB	NJ	MIL FAM HSG MAINT	19	09/28/95	06/30/97
CANNON AFB	NM	MIL FAM HSG MAINT	21	04/16/96	07/23/97
HOLLOMAN AFB	NM	MIL FAM HSG MAINT	66	05/12/97	03/07/98
KIRTLAND AFB	NM	BASE SUPPLY	170	05/02/96	07/01/97
KIRTLAND AFB	NM	PMEL	51	05/02/96	08/06/97
KIRTLAND AFB	NM	COMMUNICATION FUNCTIONS	54	04/29/97	02/02/98
NIAGRA FALLS IAP	NY	WEATHER SERVICES	4	06/13/96	09/30/97
NIAGRA FALLS IAP	NY	BASE OPERATING SUPPORT	39	06/13/96	12/01/97
OFFUTT AFB	NE	HEATING SYSTEMS	30	01/27/97	12/01/97
WRIGHT PATTERSON	OH	BASE OPERATING SUPPORT	632	05/02/96	08/27/97
WRIGHT PATTERSON	OH	ACADEMIC & PLATFORM INSTRS	115	08/15/97	07/30/98
WRIGHT PATTERSON	OH	CIVIL ENGINEERING	698	08/15/97	04/15/98
YOUNGSTOWN MUNI	OH	BASE OPERATING SUPPORT	102	06/13/96	06/10/98
TINKER AFB	OK	COMMUNICATION FUNCTIONS	138	05/02/96	08/14/97
TINKER AFB	OK	CIVIL ENGINEERING	567	04/15/97	02/13/98
GREATER PITTSBURG	PA	BASE OPERATING SUPPORT	111	06/13/96	12/10/98
WILLOW GROVE NAS	PA	BASE OPERATING SUPPORT	78	06/13/96	08/10/98
CHARLESTON AFB	SC	AUDIOVISUAL	13	06/06/97	06/05/98
SHAW AFB	SC	MIL FAM HSG MAINT	33	07/09/97	12/10/97
BROOKS AFB	TX	LABORATORY SPT SERVICES	44	05/02/96	07/25/97
CARSWELL AFB	TX	BASE OPERATING SUPPORT	91	06/13/96	04/10/99
LACKLAND AFB	TX	GROUNDS MAINTENANCE	16	06/22/95	10/15/96
LACKLAND AFB	TX	ANIMAL CARETAKING	26	10/02/95	01/30/97
SHEPPARD AFB	TX	TECH TRN-TELE SYSTEM	16	10/01/96	05/23/97
HILL AFB	UT	GROUNDS MAINTENANCE	12	05/02/96	07/28/97
HILL AFB	UT	RECREATIONAL SUPPORT	7	05/02/96	01/24/98
HILL AFB	UT	HEATING SYSTEMS	38	04/29/97	02/13/98
McCHORD AFB	WA	HEATING SYSTEMS	11	09/23/97	09/17/98
McCHORD AFB	WA	MIL FAM HSG MAINT	15	09/23/97	09/17/98
GENERAL MITCHELL	WI	BASE OPERATING SUPPORT	93	06/13/96	12/11/97
F E WARREN AFB	WY	BASE SUPPLY	187	05/06/96	11/01/97
F E WARREN AFB	WY	HEATING SYSTEMS	18	05/06/96	11/01/97
Direct Conversions					
EIELSON AFB	AK	TRANSIENT AIRCRAFT MAINT	14	10/18/96	07/01/98
DAVIS MONTHAN AFB	AZ	GENERAL LIBRARY	6	01/24/97	11/15/97
DAVIS MONTHAN AFB	AZ	CIVIL ENGINEERING	5	01/24/97	11/15/97
EDWARDS AFB	CA	LABORATORY SUPPLY SPT	10	06/04/97	10/01/97
LOS ANGELES AFS	CA	PACKING & CRATING	4	07/01/97	04/30/98
TRAVIS AFB	CA	FURNISHINGS MANAGEMENT	3	03/14/97	11/30/97
TRAVIS AFB	CA	GENERAL LIBRARY	6	03/14/97	11/14/97

Installation	State	Cost comparison function(s)	Total announced authorizations	Public announcement date	Solicitation scheduled for
TRAVIS AFB	CA	PROTECTIVE COATING	5	03/14/97	07/03/97
TRAVIS AFB	CA	ENVIROMENTAL	11	09/23/97	09/30/98
VANDENBERG AFB	CA	CIVIL ENGINEERING	9	07/29/96	11/01/97
FALCON AFB	CO	COMM O&M	205	05/06/96	11/01/97
FALCON AFB	CO	SITE INTEGRATION & SPT	144	05/06/96	10/15/97
PETERSON AFB	CO	PMEL	21	05/06/96	10/30/97
PETERSON AFB	CO	QUAL ASSUR TRAINING	1	05/06/96	11/15/97
PETERSON AFB	CO	PACKING & CRATING	9	09/10/97	09/01/98
DOVER AFB	DE	FURNISHINGS MANAGEMENT	2	03/14/97	11/13/97
DOVER AFB	DE	PROTECTIVE COATING	3	03/14/97	11/13/97
DOVER AFB	DE	GENERAL LIBRARY	5	05/09/97	01/04/98
MaxDILL AFB	FL	GENERAL LIBRARY	7	03/21/97	09/01/97
MaxDILL AFB	FL	MEDICAL TRANSCRIP CTR	4	06/03/97	10/03/97
PATRICK AFB	FL	CE MATERIAL ACQUISITION	6	05/06/96	10/30/97
PATRICK AFB	FL	TRANS ACFT MAINT/AGE	11	09/10/97	11/01/98
SCOTT AFB	IL	GENERAL LIBRARY	7	03/17/97	08/08/97
SCOTT AFB	IL	GROUNDS MAINTENANCE	3	03/17/97	10/01/97
SCOTT AFB	IL	MEDICAL FACILITY MAINT	8	03/17/97	10/15/97
AVIANO AB	ITALY	WAR RESERVE MAT (WRM)	30	08/16/96	
MISAWA	JAPAN	RANGE OPERATIONS	10	07/01/96	11/13/97
McCONNELL AFB	KS	GENERAL LIBRARY	5	03/14/97	10/04/97
McCONNELL AFB	KS	HEATING SYSTEMS	9	03/14/97	10/04/97
OSAN AFB	KOREA	RANGE O&M	83	07/15/96	09/15/97
BARKSDALE AFB	LA	GENERAL LIBRARY	6	06/11/97	02/01/98
BARKSDALE AFB	LA	CIVIL ENGINEERING	6	06/11/97	02/01/98
KEESLER AFB	MS	TECH TNG–HR SOLDERING	2	04/01/96	07/21/97
ANDREWS AFB	MD	LIBRARY	5	03/14/97	08/20/97
ANDREWS AFB	MD	MEDICAL FACILITY MAINT	11	03/11/97	10/23/98
ANDREWS AFB	MD	SOFTWARE PROGRAMMING	23	06/18/97	07/28/98
MULTIPLE INSTLNS	MULT	COMM O&M	27	02/21/96	11/29/97
MULTIPLE INSTLNS	MULT	MAINT DATA & T.O. LIBRARY	67	07/29/96	09/30/97
SEYMOUR JOHNSON	NC	GENERAL LIBRARY	7	06/11/97	10/14/97
GRAND FORKS AFB	ND	ADMIN SWITCHBOARD	12	07/26/95	10/31/97
GRAND FORKS AFB	ND	FURNISHINGS MANAGEMENT	3	09/19/96	12/30/97
GRAND FORKS AFB	ND	GENERAL LIBRARY	5	03/11/97	12/01/97
MINOT AFB	ND	HEATING SYSTEMS	13	09/23/97	11/01/97
McGUIRE AFB	NJ	GENERAL LIBRARY	6	03/17/97	05/28/98
KIRTLAND AFB	NM	DORMITORY MANAGEMENT	6	02/28/97	08/01/97
OFFUTT AFB	NE	HOSPITAL MAINTENANCE	7	05/01/96	03/01/97
OFFUTT AFB	NE	GENERAL LIBRARY	6	11/15/96	02/14/97
OFFUTT AFB	NE	PROTECTIVE COATING	8	06/11/97	10/15/97
NELLIS AFB	NV	WEAPONS SYS TRAINER OPNS	14	06/12/97	11/07/97
TINKER AFB	OK	GENERAL LIBRARY	5	07/01/96	11/21/97
CHARLESTON AFB	SC	GENERAL LIBRARY	6	03/11/97	08/18/97
CHARLESTON AFB	SC	HEATING SYSTEMS	9	03/14/97	10/24/97
CHARLESTON AFB	SC	AIRCRAFT MAINTENANCE	26	08/22/97	10/31/97
NORTH FIELD	SC	GROUNDS MAINTENANCE	1	03/14/97	10/14/97
RANDOLPH AFB	TX	GENERAL LIBRARY	7	12/03/96	02/02/98
INCIRLIK	TURKY	COMMUNICATION FUNCTIONS	56	09/08/97	07/21/97
INCIRLIK	TURKY	BASE OPERATING SUPPORT	220	09/08/97	07/21/97
HILL AFB	UT	GENERAL LIBRARY	5	05/02/96	01/15/98
HILL AFB	UT	HOUSING MANAGEMENT	8	03/10/97	12/28/97
HILL AFB	UT	FACILITIES SVCS MAINT	4	03/10/97	12/25/97
FAIRCHILD AFB	WA	FURNISHINGS MANAGEMENT	3	09/19/96	10/27/97
FAIRCHILD AFB	WA	GENERAL LIBRARY	4	03/15/97	07/14/97
FAIRCHILD AFB	WA	PROTECTIVE COATING	7	03/15/97	06/02/97
FAIRCHILD AFB	WA	TRANSIENT AIRCRAFT MAINT	5	03/15/97	06/02/97
MCCHORD AFB	WA	GENERAL LIBRARY	6	03/17/97	12/12/97
MCCHORD AFB	WA	GROUNDS MAINTENANCE	9	03/17/97	11/12/97
F E WARREN AFB	WY	FOOD SERVICES	17	07/29/97	12/01/98

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–33434 Filed 12–23–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the National Advisory Council on Indian Education. This notice also describes the functions of

the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: January 20–21, 1998, 8:00 a.m. to 5:00 p.m.

ADDRESS: U.S. Department of Education, Office of Elementary and Secondary Education, 1250 Maryland Avenue, SW, Room 4001, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. David Beaulieu, Director, Office of Indian Education, 1250 Maryland Avenue, Portals 4300, Washington, DC 20202. Telephone: (202) 260–2431; Fax: (202) 260–7779.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is a Presidentially appointed advisory council on Indian education established under Section 9151 of Title IX of the Elementary and Secondary Education Act of 1965, as amended, (20 U.S.C. 7871). The Council advises the Secretary of Education and the Congress on funding and administration of programs with respect to which the Secretary has jurisdiction and that includes Indian children and adults as participants or from which they benefit. The Council also makes recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs.

This meeting will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration. Written statements should be submitted to the address listed above.

A summary of the proceedings and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting, and are available for public inspection at the Office of Elementary and Secondary Education, U.S. Department of Education, 1250 Maryland Avenue, SW, Washington, DC 20202 from the hours of 8:30 a.m. to 5:00 p.m.

Gerald N. Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

Meeting Agenda

Tuesday, January 20, 1998

8:00 a.m.
Call to Order
Roll Call of Membership (Establish Quorum, Introductions, Invocation
8:30 a.m.
Discussion: Setting NACIE Priorities, Office of Indian Education, National Indian Education Policy Statement Executive Order
12:00 Noon
Lunch
1:00 p.m.
Meeting with Dr. Gerald N. Tirozzi, Assistant Secretary, Office of Elementary and Secondary Education
5:00 p.m.
Adjournment

Wednesday, January 21, 1998

8:00 a.m.
Ethics Training by Office of General Counsel
10:00 a.m.
Discussion: Reports, Budget, Etc.
12:00 Noon
Lunch
1:00 p.m.
Related NACIE Business Council Deliberation and Recommendation
4:30 p.m.
Scheduling of next meeting, time and place
5:00
Adjournment

[FR Doc. 97–33593 Filed 12–13–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah Gaseous Diffusion Plant.

DATES: Thursday, January 15, 1998: 5:00 p.m.–10:00 p.m.

ADDRESS: Executive Inn, Van Buren Room, 1 Executive Boulevard, West Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: Carlos Alvarado, Site-Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The meeting will include administrative plans for the board at the beginning of the meeting; Environmental Management and Enrichment Facilities (EMEF) Project updates; a review of the SSAB Draft Work Plan; updates on Waste Area Grouping (WAG) 22, Waste Management, Transportation, the Strategies for Effective and Meaningful Public Input Report , the Vortec Environmental Assessment (if it is available), and a Media Contact Discussion.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carlos Alvarado at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments as the first item on the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday through Friday, or by writing to Carlos Alvarado, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, or by calling him at (502) 441–6804.

Issued at Washington, DC on December 18, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–33573 Filed 12–23–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting: Name: Secretary of Energy Advisory Board—Electric System Reliability Task Force.

DATES AND TIMES: Tuesday, January 13, 1998, 8:30 a.m.–4:00 p.m.

ADDRESSES: Madison Hotel, Dolley Madison Ballroom, 15th & M Streets, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–1709 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION:

Background

The electric power industry is in the midst of a complex transition to competition, which will induce many far-reaching changes in the structure of the industry and the institutions which regulate it. This transition raises many reliability issues, as new entities emerge in the power markets and as generation becomes less integrated with transmission.

Purpose of the Task Force

The purpose of the Electric System Reliability Task Force is to provide advice and recommendations to the Secretary of Energy Advisory Board regarding the critical institutional, technical, and policy issues that need to be addressed in order to maintain the reliability of the nation's bulk electric system in the context of a more competitive industry.

Tentative Agenda

Tuesday, January 13, 1998

8:30—8:45 a.m.—Opening Remarks & Objectives—Philip Sharp, ESR Task Force Chairman
8:45—10:15 a.m.—Working Session: Discussion of Draft Position Paper on Technical Issues in Transmission System Reliability—Facilitated by Philip Sharp
10:15—10:30 a.m.—Break
10:30—11:30 a.m.—Working Session: Discussion of a Draft Position Paper on The Role and Shape of the Independent System Operator—Facilitated by Jose Delgado
11:30—12:00 p.m.—Public Comment Period
12:00—1:15 p.m.— Lunch
1:15—2:30 p.m. Working Session: Presentation & Discussion on The Provision of Ancillary Services—Eric Hirst (ORNL) & Facilitated by Philip Sharp
2:30—3:45 p.m.—Working Session: Presentation & Discussion on Transmission Pricing Issues—Susan Tierney & Facilitated by Philip Sharp
3:45—4:00 p.m.—Public Comment Period
4:00 p.m.–Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation: The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C., the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays. Information on the Electric System Reliability Task Force and the Task Force's interim report may be found at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on December 18, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–33574 Filed 12–23–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–91–000]

CNG Transmission Corporation; Notice of Tariff Filing

December 18, 1997.

Take notice that on December 15, 1997, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of January 1, 1998:

Second Revised Sheet No. 361A

CNG requests a waiver of the 30-day notice requirement pursuant to 18 CFR Section 154.207 to permit a January 1, 1998 effective date.

CNG states that the purpose of this filing is to comply with the Commission's directives in the July 31 Order, as clarified by the October 16 Order, to refile its gathering cost recovery proposal with the appropriate supporting data required by the Commission's regulations.

CNG states that copies of its filing have been mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33522 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–90–000]

K N Interstate Gas Transmission Co.; Notice of Tariff Filing

December 18, 1997.

Take notice that on December 15, 1997, K N Interstate Gas Transmission Company (KNI) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume 1–C and Second Revised Volume 1–D, to be effective January 15, 1998:

Second Revised Volume No. 1–C
All Tariff Sheets
Second Revised Volume No. 1–D
All Tariff Sheets

KNI states that these tariff sheets are being filed pursuant to Section 154.204 of the Commission's regulations. KNI further states that it is submitting for filing and acceptance the above revised tariff sheet(s) related to the Commission's Order issued on August 1, 1996 in Docket Nos. RP94–328–001 and RP95–81–000 granting KNI's petition for a declaratory order that it lacks market power for its Buffalo Wallow System.

KNI states that copies of the filing were served upon KNI's jurisdictional customers, interested public bodies and all parties to the proceeding.

Any person desiring to be heard or to make any protest with reference to this filing should file a motion to intervene or protest with the Federal Energy

Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests filed with the Commission will be considered by it 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 petition to intervene in accordance with the Commission Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33521 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–127–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

December 18, 1997.

Take notice that on December 11, 1997, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–127–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to operate in interstate commerce certain facilities previously constructed and operated to effectuate transportation service pursuant to Section 311 of the Natural Gas Policy Act (NGPA). Koch Gateway makes such request, under its blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Koch Gateway states that it constructed the 2-inch tap and dual 2-inch meter station under Section 311 of the NGPA, on behalf of Mississippi Valley Gas Company (Mississippi Valley), a local distribution company in Rankin County, Mississippi. Koch Gateway avers that the cost of constructing the tap, approximately $83,000 was fully reimbursed by Mississippi Valley. Koch Gateway further states that certification of this point as a jurisdictional facility will provide Mississippi Valley with additional flexibility in obtaining gas supplies, thus enabling Mississippi Valley to receive gas shipped to this point pursuant to jurisdictional open-access transportation agreements as well as Section 311 agreements.

The estimated peak day requirement for this delivery point is 1,300 MMBtu. It is indicated that the gas volumes will be transported pursuant to Koch Gateway's No Notice Service (NNS) Transportation Rate Schedule. Koch Gateway avers that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33513 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–199–008 and RP98–8–002]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1997.

Take notice that on December 15, 19978, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets.

2nd Sub Twenty-Third Revised Sheet No. 7—Nov. 1, 1997; Sub Twenty-Fourth Revised Sheet No. 7—Jan. 1, 1998

MRT states that the purpose of this filing is to change the GSRC Volumetric Charge from $.0005 to $.0500 to correct the typographical error in the above mentioned tariff sheets.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33516 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–199–009]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1997.

Take notice that on December 15, 1997, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective January 1, 1998.

MRT states that the purpose of this filing is to place the Period III rates into effect and eliminate Flexible Contract Demand, in accordance with the Stipulation and Agreement filed in this proceeding and approved by the Commission. In addition, as a result of the Commission's comments in its order, MRT is not removing the definition of Receipt Point MDQ from the Tariff but is instead revising the definition to conform with the removal of Flexible Contract Demand.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33517 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–348–006]

Panhandle Eastern Pipe Line Company; Notice of Refund Report

December 18, 1997.

Take notice that on December 12, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing its Refund Report in accordance with Ordering Paragraph (H) of the Commission's February 28, 1997 Order Following Technical Conference and Denying Requests for Rehearing, Clarification and Stay (February 28, 1997 Order), 78 FERC ¶61,202 (1997) and the Commission's letter order dated November 12, 1997 in the referenced proceeding.

Panhandle states that the February 28, 1997 Order directed Panhandle, inter alia, to make revisions to certain penalty provisions of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, First Revised Volume No. 1, and to make refunds of penalties collected in excess of the applicable tolerance levels. Also, Ordering Paragraph (H) of the February 28, 1997 Order directed Panhandle to file a refund report within thirty (30) days of the Commission's order on Panhandle's compliance filing, which filing was subsequently made on March 14, 1997. On November 12, 1997, the Commission issued a letter order approving Panhandle's March 14, 1997 compliance filing.

Panhandle further states that it has included, for all affected customers, its computation of the refunds consisting of (1) the principal portion of the refunds of the Section 12.16 Overrun Penalties and Daily Scheduling charges pursuant to Section 12.11(h) of the GT&C applicable to overrun volumes for the period October 1, 1996 through October 31, 1997 and (2) the carrying charges calculated through December 12, 1997 in accordance with Section 154.501(d) of the Commission's Regulations.

Panhandle states that copies of this filing have been served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed on or before December 29, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33518 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

United States of America Federal Energy Regulatory Commission

[Project No. 2000–010 New York]

Power Authority of the State of New York; Correction to Notice of 1998 Schedule of Meetings To Discuss Settlement for Relicensing of the St. Lawrence-FDR Power Project

December 18, 1997.

On November 25, 1997, [FR Doc. 97–31481 (62 FR 63702, December 2, 1997)] a notice of a list of 1998 schedule of meetings for the Cooperative Consultation Process Team and Subcommittees to continue settlement negotiations for the St. Lawrence-FDR Power Project located on the St. Lawrence River, St. Lawrence County, New York, was issued. The following revisions should be made.

(a) Under the Land Management and Recreation Subcommittee, delete ''January 28, 1998'' and replace with ''January 29, 1998''. (62 FR 63703, column 1, item 3).

(b) Under the Socioeconomic Subcommittee, delete ''January 29, 1998, and replace with ''January 28, 1998''. (62 FR 63703, column 1, item 4)

Lois D. Cashell,

Secretary.

[FR Doc. 97–33514 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–16–001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

December 18, 1997.

Take notice that on December 11, 1997, Tennessee Gas Pipeline Company (Tennessee) tendered for filing, in compliance with the Commission's order of November 26, 1997, its Sub Fifth Revised Sheet No. 204, to be effective December 1, 1997, along with responses to the Commission's requests for information and further clarification regarding the tariff modifications at issue in this proceeding.

Tennessee states that Sub Fifth Revised Sheet No. 204 is filed to clarify that Maximum Allowed Volume (MAV) overrun penalties will be applied only to deliveries made after the eight-hour notice period ends. In addition, this revised tariff sheet specifies how Tennessee will notify its shippers of MAV enforcement when such notices are issued after normal business hours or on weekends. Tennessee states that the information submitted with the tariff sheets is provided in response to the Commission's directive in the November 26 order for additional information regarding modifications to Tennessee's Rate Schedules FS and IS.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33520 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–408–003]

Trailblazer Pipeline Company; Notice of Motion To Make Tariff Sheets Effective

December 18, 1997.

Take notice that on December 15, 1997, Trailblazer Pipeline Company (Trailblazer) file with the Federal Energy Regulatory Commission a Motion to Make Suspended Tariff Sheets Effective (Motion). Trailblazer moved to make effective on January 1, 1998, tariff sheets filed on July 1, 1997 in this proceeding.

Trailblazer states that the rates on the tariff sheets to be effective January 1, 1998 reflect the effect of removing from Trailblazer's rate base facilities which were not in service on November 30, 1997, the end of the test period. Trailblazer has also filed to make effective January 1, 1998, tariff sheets related to its revised treatment of line pack.

Trailblazer requested waiver of any applicable Commission Regulations and orders to the extent necessary to permit the proposed tariff sheets to become effective on January 1, 1998.

Trailblazer states that copies of the Motion, together with the tariff sheets and workpapers, are being served on Trailblazer's customers, interested state regulatory agencies, and all parties set out on the official service list at Docket No. RP97–408.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33519 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–22–000, et al.]

National Gas & Electric L.P., et al. Electric Rate and Corporate Regulation Filings

December 17, 1997.

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

1. National Gas & Electric L.P.

[Docket No. EC98–22–000]

Take notice that National Gas & Electric L.P. (NG&E), a marketer of electric power, filed on December 8, 1997, a request for approval under Section 203 of the Federal Power Act of the merger of the general partner, PanCanadian Gas Marketing Inc. (PanCanadian Gas), and the limited partner, PanCanadian Ventures Inc. (PanCanadian Ventures), of NG&E, after which NG&E will be dissolved. PanCanadian Gas and PanCanadian Ventures are wholly-owned subsidiaries of PanCanadian Energy Inc. NG&E also requests approval of the transfer of its Rate Schedule FERC No. 1 and other jurisdictional assets to the merged entity.

Comment date: January 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. LG&E Energy Marketing Inc.

[Docket No. ER94–1188–017]

Take notice that on September 17, 1997, LG&E Energy Marketing Inc. (LEM), P.O. Box 32010, 220 West Main Street, Louisville, Kentucky, 40332, formerly known as LG&E Power Marketing Inc., filed a notification of change in status to reflect its intention to enter into (together with certain other subsidiaries of LG&E Energy Corp.) a series of agreements with Big Rivers Electric Corporation, including a long-term Power Purchase Agreement and a Transmission Service and Interconnection Agreement.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Rayburn County Electric Cooperative

[Docket No. ER97–1903–001]

Take notice that on November 26, 1997, Rayburn County Electric Cooperative tendered for filing its refund report in the above-referenced docket.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. PP&L, Inc.

[Docket No. ER98–786–000]

Take notice that on November 25, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated November 19, 1997, with SCANA Energy Marketing, Inc. (SCANA), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds SCANA as an eligible customer under the Tariff.

PP&L requests an effective date of November 25, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to SCANA and to the Pennsylvania Public Utility Commission.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. PP&L, Inc.

[Docket No. ER98–787–000]

Take notice that on November 25, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated November 19, 1997, with NP Energy, Inc. (NPE), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds NPE as an eligible customer under the Tariff.

PP&L requests an effective date of November 25, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to NPE and to the Pennsylvania Public Utility Commission.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER98–788–000]

Take notice that on November 25, 1997, Florida Power & Light Company (FPL), tendered for filing an Amendment Number Three to the Network Service Agreement between FPL and the Florida Municipal Power Agency. This Amendment Number Two adds the City of Starke, Florida as a Network Member. FPL proposes to make the Amendment Number Two effective November 1, 1997.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. PECO Energy Company

[Docket No. ER98–789–000]

Take notice that on November 25, 1997, PECO Energy Company (PECO), filed under § 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction

Agreement dated October 30, 1997, with Delmarva Power & Light Company (DP&L), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Transaction Agreement is for a term of fourteen (14) months.

PECO requests an effective date of November 1, 1997, for the Transaction Agreement.

PECO states that copies of this filing have been supplied to DP&L and to the Pennsylvania Public Utility Commission.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Tampa Electric Company

[Docket No. ER98–790–000]

Take notice that on November 25, 1997, Tampa Electric Company (Tampa Electric), tendered for filing a letter agreement with the City of Lakeland, Florida (Lakeland) that amends an existing letter of commitment providing for the sale by Tampa Electric to Lakeland of electric capacity and energy, and a notice of termination of the letter of commitment.

Tampa Electric proposes that the amendatory letter agreement be made effective on November 28, 1997, and that termination of the letter of commitment be made effective on December 1, 1997, and therefore requests waiver of the Commission's notice requirements.

Copies of the amendatory letter agreement and the notice of termination have been served on Lakeland and the Florida Public Service Commission.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Tampa Electric Company

[Docket No. ER98–791–000]

Take notice that on November 25, 1997, Tampa Electric Company (Tampa Electric), tendered for filing a notice of termination of the service agreement between Tampa Electric and Heartland Energy Service, Inc. (Heartland), for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric also tendered for filing a revised tariff sheet showing the change to the index of customers under the tariff.

Tampa Electric proposes that the termination and the tariff sheet be made effective on November 25, 1997, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Heartland and the Florida Public Service Commission.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Edison Source

[Docket No. ER98–792–000]

Take notice that on November 25, 1997, Edison Source (Source), tendered for filing a Revised Market-Based Rate Tariff. Copies of the filing were served upon the California Public Utilities Commission and customers who Source has committed to sell power to under the Revised Market-Based Rate Tariff.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Delhi Energy Services, Inc.

[Docket No. ER98–793–000]

Take notice that on November 24, 1997, Delhi Energy Services, Inc. (DESI), tendered for filing a notice of cancellation of DESI's Rate Schedule FERC No. 1 to be effective November 24, 1997.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Delmarva Power & Light Company

[Docket No. ER98–794–000]

Take notice that on November 25, 1997, Delmarva Power & Light Company, tendered for filing executed umbrella service agreements with NorAm Energy Management, Inc., Columbia Power Marketing Corporation, NESI Power Marketing, Inc., and NP Energy Inc., under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Electric Power Company

[Docket No. ER98–795–000]

Take notice that on November 25, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Transmission Service Agreement between itself and Avista Energy Inc., (Avista). The Transmission Service Agreement allows to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Avista, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: December 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER98–822–000]

Take notice that on November 26, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with DPL Energy, Inc., and CNG Retail Services Corporation under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: December 31, 1997, 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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33562 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–16–000, et al.]

Ogden Energy China (Alpha) Ltd., et al.; Electric Rate and Corporate Regulation Filings

December 15, 1997.

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

1. Ogden Energy China (Alpha) Ltd.

[Docket No. EG98–16–000]

On December 5, 1997, Ogden Energy China (Alpha) Ltd. (OECA) filed with the Federal Energy Regulatory

Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

OECA will own a sixty percent equity interest in a 24 MW eligible facility located in Linán Municipality, Zhejiang Province, People's Republic of China. OECA states that it will be engaged directly and exclusively in the business of owning and/or operating all or part of one of more eligible facilities (as defined in Section 32(a)(1) of the Public Utility Holding Company Act) and selling electricity at wholesale to the Linán Power Bureau and at retail to consumers none of which will be located within the United States.

Comment date: January 2, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Monmouth Energy, Inc.

[Docket No. EG98–17–000]

On December 8, 1997, Monmouth Energy, Inc. (Monmouth), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Monmouth is a New Jersey corporation and a wholly-owned subsidiary of DQE Energy Services, Inc. Monmouth's facility is capable of producing a nominal 10.0 MW of power from approximately 5.9 million standard cubic feet a day (dry basis) of landfill gas. Monmouth states that no rate or charge in connection with this facility was in effect under the laws of any state as of October 24, 1992 or any time thereafter. Monmouth further states that copies of the application were served upon the Securities and Exchange Commission, the New Jersey Board of Public Utilities, and Jersey Central Power and Light Co.

Comment date: January 2, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Ogden Energy China (Gamma) Ltd.

[Docket No. EG98–18–000]

On December 8, 1997, Ogden Energy China (Gamma) Ltd. (OECG), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

OECG will own a sixty percent equity interest in a 24 MW eligible facility located in Taixing City, Jiangsu Province, People's Republic of China. OECG states that it will be engaged directly and exclusively in the business of owning and/or operating all or part of one of more eligible facilities (as defined in Section 32(a)(1) of the Public Utility Holding Company Act) and selling electricity at wholesale to the Taixing City Power Bureau and at retail to consumers none of which will be located within the United States.

Comment date: January 2, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Ogden Energy China (Delta) Ltd.

[Docket No. EG98–19–000]

On December 8, 1997, Ogden Energy China (Delta) Ltd. (OECA), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

OECA will own a sixty percent equity interest in a 24 MW eligible facility located in Taixing City, Jiangsu Province, People's Republic of China. OECA states that it will be engaged directly and exclusively in the business of owning and/or operating all or part of one of more eligible facilities (as defined in Section 32(a)(1) of the Public Utility Holding Company Act) and selling electricity at wholesale to the Taixing City Power Bureau and at retail to consumers none of which will be located within the United States.

Comment date: January 2, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. San Francisco Bay Area Rapid Transit District, an Agency of the State of California v. Pacific Gas and Electric Company a Corporation, and California Independent System Operator Corporation, a Corporation

[Docket No. EL98–10–000]

Take notice that on November 28, 1997, San Francisco Bay Area Rapid Transit District (BART) tendered for filing a complaint seeking an order of the Commission directing Pacific Gas and Electric Company to (1) enter into a long-term network transmission agreement in compliance with the Commission's Orders Nos. 888 and 888–A and PG&E's open-access transmission tariff (OATT), and (2) to cease its discriminatory treatment of BART in refusing to enter into a network transmission agreement for the delivery of Federal preference power to BART and in asserting, contrary to Commission Order No. 888–A that BART is not an eligible customer entitled to network transmission service under PG&E's OATT.

Comment date: January 14, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before January 14, 1998.

6. Portland General Electric Company

[Docket No. ER96–333–001]

Take notice that on December 3, 1997, Portland General Electric Company (PGE) tendered for filing revised tariff sheets to its open access transmission tariff (PGE–8) in Docket No. OA96–137 as ordered by the Commission in Docket No. ER96–333–000. The revised tariff sheets reflect changes to PGE's Schedules 2, 7, 8, 9 and Attachment H to unbundle the charge for Reactive Power Supply and Voltage Control from Generation Sources from the base transmission rates.

PGE respectfully requests that the Commission grant a waiver of the applicable notice requirements of 18 CFR Section 35.3 to allow the revised tariff sheets to become effective July 9, 1996.

Copies of this filing were served upon entities noted in the filing letter.

Comment date: December 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Interstate Power Company

[Docket No. ER97–2667–000]

Take notice that on November 26, 1997, Interstate Power Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: December 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. PECO Energy Company

[Docket No. ER98–28–001]

Take notice that on December 5, 1997, PECO Energy Company filed a compliance filing in the above-captioned docket consisting of clean and redlined version of First Revised Sheet No. 13 to its Form of Installed Capacity Obligation Allocation Agreement filed in this docket on October 3, 1997.

Copies of this compliance filing are being served on all parties on the

official service list compiled by the Secretary for this proceeding.

Comment date: December 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Millennium Power Partners, L.P.

[Docket No. ER98–830–000]

Take notice that on November 26, 1997, Millennium Power Partners, L.P. (Millennium), submitted for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, a Petition for authorization to make sales of capacity and energy at market-based rates from a proposed nominal 360 MW natural gas-fired, combined cycle power plant (the Millennium project) in the Town of Charlton, Massachusetts. A new 115 kV interconnection line extending from the switchyard at the proposed site to transmission lines owned by New England Power Service Company will serve to connect the project to the regional grid. The project, which will be a merchant plant, is expected to commence commercial operation in the year 2000.

Comment date: December 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER98–1036–000]

Take notice that on December 11, 1997, Southern California Edison Company (Edison) tendered for filing the Edison-Anaheim 1997 Restructuring Agreement (Restructuring Agreement) between Edison and the City of Anaheim, California (Anaheim), and a Notice of Cancellation of various agreements and rate schedules applicable to Anaheim. Included in the Restructuring Agreement as Appendices B, C, D, and E are: the Edison-Anaheim Interconnection Agreement, Amendment No. 1 to the Edison-Anaheim San Onofre Nuclear Generating Station Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Anaheim 1995 San Juan Unit 4 Firm Transmission Service Agreement, and the Edison-Anaheim Four Corners-Mead Firm Transmission Service Agreement.

The Restructuring Agreement is the result of negotiations between Edison and Anaheim to modify existing contracts to accommodate the emerging Independent System Operator (ISO)/ Power Exchange market structure. The Restructuring Agreement significantly simplifies the existing operational arrangements between Edison and Anaheim. In addition, the Restructuring Agreement provides for cancellation of existing bundled service arrangements and obligations between Edison and Anaheim. Edison is requesting that the Restructuring Agreement become effective on the date the ISO assumes operational control of Edison's transmission facilities.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 29, 1997, 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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33563 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Allegheny Hydro No. 8 and 9 LP and Connecticut National Bank; Notice of Availability of Draft Environmental Assessment

[Project No. 3021–048]

December 18, 1997.

A draft environmental assessment (EA) is available for public review. The draft EA analyzes the environmental impacts of installing 15-inch flashboards on the top of Lock and Dam 9, part of the Allegheny River Lock and Dam 8 and 9 Hydroelectric Project No. 3021–048. The Commission is considering requiring flashboards, from about May 1 through October 31 each year, to rectify project-induced lower water levels and associated impacts to recreational boating in the Lock and Dam 9 pool. The draft EA contains Commission staff's preliminary analysis that 15-inch flashboards are needed and installation would not constitute a major federal action significantly affecting the quality of the human environment. The Allegheny River Lock and Dam 8 and 9 Project is on the Allegheny River near the City of Kittanning, in Armstrong County, Pennsylvania.

The draft EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the draft EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371.

Please submit any comments on the draft EA within 60 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation. Comments should be addressed to: Ms. Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC 20426. Please affix Project No. 3021–048 to all comments.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33515 Filed 12–23–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00229; FRL–5762–5]

TRI; Alternate Threshold for Low Annual Reportable Amounts; Agency Information Collection Activities; Proposed Renewal and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12. Before submitting the following ICR to OMB for review and reapproval, EPA is soliciting comments on specific aspects of the information collection, which is briefly described below. The ICR is a continuing ICR entitled ''Alternate Threshold for Low Annual Reportable Amounts,'' EPA ICR No. 1704.05, OMB No. 2070–0143. This ICR covers the reporting and recordkeeping requirements associated with reporting

under the alternate threshold for reporting to the Toxic Release Inventory (TRI), which appear at 40 CFR part 372. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before February 23, 1998.

ADDRESSES: Each comments must bear the docket control number ''OPPTS–00229'' and administrative record number 187. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.ep.gov. Follow the instructions under Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contains information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must be also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must asset a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection of Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: 202–554–0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information contact: Tim Crawford, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–1715; Fax: 202–401–8142; e-mail: crawford.tim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

Internet

Electronic copies of the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/). An electronic copy of the collection instrument referenced in this ICR and instructions for its completion is available at http://www.epa.gov/opptintr/afr96.

Fax-on-Demand

Using a faxphone call 202–401–0527 and select item 4056 for a copy of the ICR and item number 4049 for a copy of an interim report on Form A.

I. Background

Affected entities: Entities potentially affected by this action are those chemical facilities that manufacture, process or otherwise use certain toxic chemicals listed on the Toxic Release Inventory (TRI) and which are required, under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), to report annually to EPA their environmental releases of such chemicals.

For the collection of information addressed in this notice, EPA would like to solicit comments to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collection

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on May 31, 1998.

Title: Alternate Threshold for Low Annual Reportable Amounts.

ICR Numbers: EPA ICR No. 1704.04, OMB No. 2070–0143.

Abstract: EPCRA section 313 requires certain facilities manufacturing, processing, or otherwise using certain toxic chemicals in excess of specified threshold quantities to report their environmental releases of such chemicals annually. Each such facility must file a separate report for each such chemical.

In accordance with the authority in EPCRA, EPA has established an alternate threshold for those facilities with low amounts of a listed toxic chemical in wastes. A facility that otherwise meets the current reporting thresholds but estimates that the total amount of the chemical in total waste does not exceed 500 pounds per year, and that the chemical manufactured, processed, or otherwise used in a amount not exceeding 1 million pounds during the reporting year, can take advantage of reporting under the alternate threshold option for that chemical for that reporting year.

Each qualifying facility that chooses to apply the revised threshold must file the Form A (EPA Form 9350–2) in lieu of a complete TRI reporting Form R (EPA Form 9350–1). In submitting the Form A, the facility certifies that the sum of the amount of the EPCRA section 313 chemical in wastes did not exceed 500 pounds of the reporting year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year. Use of the Form A in place of the Form R represents a substantial savings to respondents, both in burden hours and in labor costs.

The primary function served by the submission of the Form A is to satisfy the statutory requirement to maintain reporting on a substantial majority of releases for all listed chemicals. Without the Form A, users of TRI data would not have access to any information on these chemicals. The Form A also serves as a *de facto* range report, which is useful to any party interested in amounts being handled at a particular facility or for broader statistical purposes. Additionally, the Form A provides compliance monitoring and enforcement programs and other interested parties with a means to track chemical management activities and verify overall compliance with the rule. Responses to this collection of information are mandatory (see 40 CFR part 372) and facilities subject to reporting must either submit a Form A or a Form R.

Burden Statement: The burden to respondents for complying with this ICR

is estimated to total 991,000 hours per year with an annual cost of $61.9 million. These totals are based on an average burden of 34.6 hours per response for an estimated 14,453 respondents making one response annually. These estimates include the time needed to determine applicability; review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The use of Form A may save reporting facilities a total of up to 500,000 hours and $30 million per year, compared to the cost of reporting on Form R.

III. Public Record and Electronic Submissions

The official record for this document as well as the pubic version, has been established for this document under docket control number ''OPPTS–00229'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at: oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPPTS–00229'' and administrative control number 187. Electronic comments on this document may be online at many Federal Depository Libraries.

List of Subjects

Environmental protection; information collection requests; reporting and recordkeeping.

Dated: December 16, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–33455 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5940–2]

Proposed Settlements; Petitions for Review of ''National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlements; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act (''the Act''), notice is hereby given of three proposed settlement agreements regarding the following petitions for review: *Chemical Manufacturers Association* v. *EPA*, No. 96–1031(D.C. Cir.); Halogenated Solvents Industry Alliance, Inc. v. *EPA, No. 96–1036 (D.C. Cir.); and Society of the Plastics Industry, Inc.,* v. *Browner,* No. 96–1038 (D.C. Cir.). Each petition seeks judicial review under section 307(b) of the Act of the final rule entitled, ''National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations,'' 60 FR 62930 (Dec. 7, 1995) (''Wood Furniture NESHAP''), promulgated by the United States Environmental Protection Agency (''EPA''), respondent, and codified at 40 CFR part 63, subpart JJ.

There is a separate proposed settlement agreement (''PSA'') for each petition for review, which addresses the specific issues raised by the respective petitioner. For convenience of interested parties, following is a brief summary of some of the key points of each PSA; however, interested parties are strongly encouraged to obtain a copy of the PSAs to discern for themselves the full scope of the proposed settlements instead of relying solely on the summaries below.

The PSA between EPA and the Chemical Manufacturers Association requires EPA to conduct notice and comment rulemaking proposing that certain glycol ethers be removed from Table 6 of the Wood Furniture NESHAP and that the de minimis value in Table 6 for 2-ethoxy ethyl acetate be revised to read 10.0 tons/year.

The PSA between EPA and the Halogenated Solvents Industry Alliance would require EPA: (1) to conduct notice-and-comment rulemaking in accordance with section 307(d) of the Act proposing that perchloroethylene and trichloroethylene be deleted from Table 4 of the Wood Furniture NESHAP; and (2) to give great weight to the recommendations of the Science Panel regarding whether a reassessment of the cancer hazard for methylene chloride should be undertaken based on the current state-of-the-science. This PSA also requires EPA to conduct additional notice and comment rulemaking with respect to methylene chloride if methylene chloride is reassessed and certain findings are made as a result of that reassessment.

The PSA between the Society of the Plastics Industry and EPA would require EPA to propose technical amendments to the Wood Furniture NESHAP that would remove the subheadings of ''Nonthreshold Pollutants,'' ''High-Concern Pollutants,'' and ''Unrankable Pollutants'' in Table 6 of the Wood Furniture NESHAP and to remove footnote ''a'' to Table 6, on the grounds that the subheadings and footnote are unnecessary because no subcategories of pollutants are created in Table 6.

Each of the proposed settlement agreements would require EPA to sign a notice of proposed rulemaking regarding the above amendments no later than six (6) months after the date the settlement agreement is signed, and a notice of final rulemaking no later than twelve (12) months after the date the settlement agreement is signed.

Notice of Proposed Settlement

For a period of thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the proposed settlement agreements may be requested from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–7606, or by e-mail at COCHRAN.PHYLLIS@EPAMAIL.EPA.GOV. Written comments should be sent to Jon

Devine at the above address and must be submitted on or before January 23, 1998.

Dated: September 12, 1997.

Scott C. Fulton,

Principal Deputy General Counsel.

[FR Doc. 97–33612 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5487–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed December 15, 1997 Through December 19, 1997

Pursuant to 40 CFR 1506.9.

EIS No. 970483, Draft EIS, FAA, FL, Miami International Airport Master Plan Update for the Proposed New Runway, Funding and COE Section 404 Permit, Miami-Dade County, FL, Due: February 20, 1998, Contact: Bart Vernace, P.E. (407) 812–6331.

EIS No. 970484, Draft Supplement, COE, CA, Napa River and Napa Creek Flood Protection Project, New Information, City of Napa, Napa County, CA, Due: February 06, 1998, Contact: Thomas Bonetti (916) 557–6727.

EIS No. 970485, Draft EIS, AFS, AK, Cascade Point Access Road, Construction, Maintenance and Operation, Road Easement within National Forest System land in the vicinity of Echo Cove, EPA Permit, COE Sections 10 and 404 Permits, Juneau, AK, Due: February 06, 1998, Contact: Jennett de Leeuw (907) 586–8800.

EIS No. 970486, Final EIS, AFS, WI, Oconto River Seed Orchard Pest Management Plan, Implementation, Nicolet National Forest, Oconto County, WI, Due: January 22, 1998, Contact: Bill Sery (715) 276–7400.

EIS No. 970487, Draft EIS, COE, GA, Brunswick Harbor Deepening Federal Navigation Project, Improvements, Brunswick, Glynn County, GA, Due: February 06, 1998, Contact: William G. Bailey (912) 652–5781.

EIS No. 970488, Final EIS, USN, NY, Naval Weapons Industrial Reserve Plant Calverton Disposal and Reuse, Implementation, Towns of Riverhead and Brookhaven on Long Island, Suffolk County, NY, Due: January 22, 1998, Contact: Kurt C. Frederick (610) 595–0728.

EIS No. 970489, DRAFT EIS, DOE, KY, TN, OH, TN, Programmatic EIS—Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride, Paducah Site, McCracken County, KY; Portsmouth Site, Pike County, OH; and K–25 Site on the Oak Ridge Reservation, Anderson and Roane Counties, TN, Due: April 28, 1998, Contact: Charles E. Bradley (301) 903–4781.

EIS No. 970490, Final EIS, FHW, MO, MO–21 Corridor Transportation Improvement, between Otto to DeSoto, Funding, COE Section 404 Permit and NPDES Permit, Jefferson County, MO, Due: January 22, 1998, Contact: Don Newmann (573) 636–7104.

Amended Notices

EIS No. 970464, Draft EIS, COE, AZ, Rio Salado Environmental Restoration of two Sites along the Salt River; (1) Phoenix Reach and (2) Tempe Reach, Feasibility Report, in the Cities of Phoenix and Tempe, Maricopa County, AZ, Due: January 26, 1998, Contact: Alex Watt (213) 452–3860. Published FR–12–12–97—Correction to Telephone.

Dated: December 19, 1997.

Anne N. Miller,

Deputy Director, Office of Federal Activities.

[FR Doc. 97–33607 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5941–2]

Technical Workshop on the Potential for Application of 2,3,7,8–TCDD Toxicity Equivalency Factors to Aquatic Life and Wildlife

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: EPA is announcing a workshop to evaluate the application of toxicity equivalency factors (TEFs) for 2,3,7,8–TCDD to the assessment of risks from polychlorinated dioxins, furans, and biphenyls to terrestrial and aquatic wildlife. The workshop will be open to members of the public as observers. The application of TEFs, which are based on different experimental systems and varying amounts of empirical data, will be studied in the context of representative case studies.

DATES: The workshop will begin on Tuesday, January 20, 1998, at 3 p.m. and end on Thursday, January 22, 1998, at 5 p.m. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the Chicago Hilton and Towers, 720 S. Michigan Ave., Chicago, IL 60605, Telephone (312) 922–4400.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Cynthia Nolt, U.S. EPA Office of Science Policy (8104R), 401 M Street SW, Washington, DC 20460, Telephone (202) 564–6763. Eastern Research Group, Inc., an EPA contractor, is convening this workshop. To attend the workshop as an observer, contact Eastern Research Group, Inc., Telephone (781) 674–7374.

SUPPLEMENTARY INFORMATION: The purpose of the workshop is to explore the application of additivity models for polychlorinated dioxins, furans, and biphenyls in problem formulations and effects characterizations of ecological risk assessments for aquatic life and avian and mammalian wildlife. In two previous workshops, convened by the World Health Organization in August 1996 and June 1997, scientific experts reached consensus on a scheme for prioritizing data sets and TEFs for aquatic life and wildlife. This third workshop will examine the use of a TEF approach in effects characterization in prospective risk assessments, as well as in retrospective risk assessments, where it may be applied as a diagnostic tool to assess relative risk.

The workshop will consist of three panels that are to address uncertainties, such as lack of knowledge and variability, associated with WHO consensus TEFs (and the data sets for aquatic, avian, and mammalian wildlife from which the TEFs were determined), in the context of two risk assessment case studies. The prospective case study involves a risk assessment for a hypothetical point source requiring a water quality permit with standards that will protect aquatic life and wildlife at the individual and population levels of biological organization. The retrospective case study focuses on a hypothetical freshwater ecosystem in which scientists have observed reproductive effects and have measured exposures in both biota and sediments. The panels will relate the exposure levels to a concentration of concern and a threshold for remediation.

To focus the workshop, the deliberations will address only compounds whose mode of action is elicited through the arylhydrocarbon receptor (AhR). The workshop will not address either chemicals with different modes of action or nonchemical stressors. In addition, the workshop deliberations will be restricted to the direct effects of AhR agonists, and will

not involve evaluations of indirect effects.

Each panel will be composed of experts from the public and private sector. They will use the two case studies to evaluate how the nature and extent of uncertainties associated with the TEF approach and with associated data sets can have varying implications in different types of risk assessments. The results of the workshop will be compiled and summarized by Eastern Research Group in a workshop report. The availability of this workshop report will be announced in a future **Federal Register** document.

Dated: December 19, 1997.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 97–33736 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5941–1]

Technical Workshop on Drake Site Incinerator Risk Issues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: EPA is announcing a workshop convened by Eastern Research Group, Inc., an EPA contractor, for scientific peer review of the EPA draft risk assessment for the Drake Chemical Superfund Site Incinerator full-scale operation in Lock Haven, Pennsylvania. The workshop will be held in Williamsport, Pennsylvania, and will be open to members of the public as observers. The peer review, to be conducted by scientists from outside EPA, is being organized to assist in completing the risk assessment.

DATES: The workshop will begin on Thursday, January 15, 1998 at 12 Noon and end on Friday, January 16, 1998 at 12:30 p.m. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the Genetti Hotel & Conference Center, 200 West 4th Street, Williamsport, Pennsylvania 17701. Since seating capacity is limited, please contact Eastern Research Group, Inc., Tel.: (781) 674–7374, by January 9, 1998 to attend the workshop as an observer.

FOR FURTHER INFORMATION CONTACT: For technical inquires, contact Mr. Gregg Crystall, U.S. EPA Region III, 841 Chestnut Street, Philadelphia, PA 19107. Tel.: (215) 566–3207. Copies of the draft risk assessment will be available for inspection in the EPA Region III Library, Philadelphia, PA, and the EPA Headquarters Information Resources Center, Washington DC. In addition, the draft risk assessment will be available for inspection in: the Ross Public Library, West Main Street, Lock Haven, PA, 17745; the Stevenson Library, Lock Haven University, Lock Haven PA, 17745; and the Lock Haven City Hall, 20 East Church Street, Lock Haven, PA, 17745. Inquiries concerning additional opportunities for document review should be directed to Mr. Crystall.

SUPPLEMENTARY INFORMATION: While operational, the Drake Chemical Company in Lock Haven, Pennsylvania was sited numerous times by State and Federal agencies for violating environmental and health and safety regulations. In 1982 as a response to the Company's noncompliance with environmental regulations, EPA Region III undertook emergency removal actions. These actions included removal and disposal of surface drums, surface sludges, and liquids contained in process and storage tanks, and placement of fences around the property. Additional remediation actions have been conducted in several phases since then. Phase I remedial activities included the remediation of a leachate stream draining into Bald Eagle Creek. Phase II included drainage and removal of materials from two lined Lagoons, and demolition and removal of the on-site buildings. Subsequent studies conducted at the site indicated that the remaining contamination in soils presented a serious threat to the environment and human health. The 1988 Record of Decision concluded that the remaining site wastes, approximately 200,000 cubic yards of contaminated site soils, sediments, and sludges from the on-site lagoons, should be excavated and treated on-site in a high temperature incinerator. The excavated soils would be stockpiled temporarily, remediated in an on-site rotary kiln incinerator, then returned to the site. After all the contaminated soil had been remediated, the incinerator would be dismantled and removed from the site.

Prior to full-scale operation, a trial burn process was conducted to ensure incinerator equipment functioned according to operational and safety specifications. Prior to conducting this evaluation, EPA Region III prepared a trial burn process risk assessment (June, 1996). The trial burn process risk assessment was developed using approximated data drawn from site soil samples, anticipated soil feed rates, incinerator design parameters, and emissions data from other incinerators. Results of the trial burn risk assessment were presented during a public meeting held in September 1996. The trial burn process was conducted in January and February 1997.

Most recently, EPA Region III developed a full-scale operation risk assessment by utilizing actual data collected during the trial burn process. The resulting Draft Drake Chemical Site Incinerator Full-Scale Operation Risk Assessment (November 1997) is the subject of the current peer review.

For the current review, EPA is inviting a panel of 14 independent scientists from the fields of toxicology, environmental fate and transport, combustion engineering, atmospheric modeling, exposure assessment, and ecological assessment. These scientists will focus on the scientific data, methods, and analyses, along with the assumptions and uncertainties that are associated with full-scale operation risk estimates. Following the workshop, EPA will consider the scientist's individual recommendations in completing the risk assessment. The risk assessment documents undergoing review relate only to scientific issues. Although the completed risk assessment will be one of the factors considered in making future decisions for the Drake Chemical site, these decisions and other risk management issues will not be a part of the peer review process.

Dated: December 19, 1997.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 97–33735 Filed 12–23–97; 8:45 am]

BILLING CODE: 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5940–01]

Notice of Open Meeting of the Environmental Financial Advisory Board on February 10–11, 1998

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board on February 10–11, 1998. The meeting will be held at the National Press Club, 13th Floor in the Holeman Lounge, 14th and F Streets, NW, Washington, DC. The February 10 session will run from 9 am to 5 pm, while the February 11 session will run from 8:15 am to 11 am.

EFAB is chartered with providing analysis and advice to the EPA

Administrator on environmental finance. The purpose of this meeting is to discuss work products under EFAB's current strategic action agenda and to develop an action agenda to direct the Board's activities over the remainder of this year and into 1999. Environmental financing topics expected to be discussed include: cost effective environmental management, community-based environmental protection, brownfields redevelopment, Drinking Water State Revolving Funds, and small business access to capital.

The meeting will be open to the public, but seating is limited. For further information, please contact Alecia Crichlow, U.S. EPA on 202–564–5188, or Joanne Lynch, U.S. EPA on 202–564–4999.

Dated: December 11, 1997.

Jack Shipley,

Acting Comptroller.

[FR Doc. 97–33610 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5939–9]

National Drinking Water Advisory Council Occurrence and Contaminant Selection Working Group; Notice of Open Meeting

Under section 10(a)(2) of Pub. L. 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting (via conference call) of the Occurrence & Contaminant Selection Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (41 U.S.C. S300f *et seq.*), will be held on January 7, 1998 from 12:30 p.m. to 4:30 p.m. EST. The conference call is open to the public, but due to availability, conference lines are limited and access will be granted on a first-come first-served basis.

The purpose of this call is to review proposed changes to the first Drinking Water Contaminant Candidate List (CCL). The changes will be based on public comments and additional information received as a result of the October 6, 1997 document (62 FR 52193) of the draft CCL. The Working Group members will review and discuss the relevant issues and facts, and develop proposed recommendations for deliberation by the advisory council. Therefore, statements will be taken from the public as time allows.

For more information, please contact, Evelyn Washington, Designated Federal Officer, Occurrence & Contaminant Selection Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4607), 401 M Street SW., Washington, DC 20460. The telephone number is 202–260–3029, fax 202–260–3762, and e-mail address washington.evelyn@epamail.epa.gov.

Dated: December 18, 1997.

Charlene E. Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 97–33611 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5940–3]

Science Advisory Board; Notice of Public Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time and all meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating EPA Office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB Office. Details on availability are noted below.

1. Executive Committee (EC)

The Science Advisory Board's Executive Committee (EC) will meet on Tuesday, January 13, 1998, and Wednesday, January 14, 1998. The meeting will convene each day at 8:30 a.m., in the Administrator's Conference Room 1103 West Tower of the U.S. Environmental Protection Agency Headquarters Building, 401 M Street, SW, Washington, DC 20460, and will adjourn no later than 5:30 p.m. on each day (Eastern Time).

At this meeting, the Executive Committee will receive updates from its committees and subcommittees summarizing their recent and planned activities. As part of these updates, some committees expect to present draft reports for the Executive Committee review and approval. *Expected* drafts include:

(a) Environmental Engineering Committee

(1) Review of Pollution Prevention Research Plan

(2) Review of Surface Impoundments Survey

(b) Integrated Human Exposure Committee

(1) Update on Expedited Action on ''Review of Indoor Air Source Ranking Database''

(2) Commentary on ''Importance of Indoor Air Environments''

Other items on the agenda tentatively include, but are not limited to, the following:

(a) Discussion with Deputy Administrator Fred Hansen on various issues.

(b) Discussion with the Acting Assistant Administrator for Research and Development, Mr. Henry Longest on Peer Review at EPA.

(c) Updates on Activities of the Agency's FIFRA Scientific Advisory Panel (SAP) and the Board of Scientific Counselors (BOSC) and their interactions with the SAB.

(d) An update of the Futures activities of the SAB.

(e) An update on the Integrated Risk Project.

(f) A follow-up to the Board's Strategic Planning Retreat held in November 1997.

FOR FURTHER INFORMATION CONTACT: Members of the public desiring additional information concerning the meeting or who wish to submit comments should contact Dr. Donald G. Barnes, Designated Federal Official for the Executive Committee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–4126; fax (202) 260–9232; or via the INTERNET at: barnes.don@epamail.epa.gov. Copies of the draft meeting agenda and available draft reports listed above can be obtained from Ms. Priscilla Tillery-Gadson on (202) 260–8414; fax (202) 260–7118; or via the INTERNET at: tillery.priscilla@epamail.epa.gov.

2. Advisory Council on Clean Air Compliance Analysis—Three Meetings

The Science Advisory Board's (SAB) Advisory Council on Clean Air Compliance Analysis (ACCACA, or the ''Council''), its Air Quality Models Subcommittee (AQMS), and its Health and Ecological Effects Subcommittee (HEES) will each hold public meetings on the dates and times described below. All meetings are open to the public, and all times noted are Eastern Time. For further information concerning the specific meetings described in this section, please contact the individuals listed below. These public meetings are a follow-up to earlier Council public teleconference discussions held on March 14, March 19, May 15 and June 30, 1997, as well as the AQMS public teleconference meeting discussions of

May 5, 1997 pertaining to the 1990 Clean Air Act Amendments (CAAA) section 812 Prospective Study of Costs and Benefits (See 62 FR 10045, Wednesday, March 5, 1997, 62 FR 19320, April 21, 1997 and 62 FR 32605, June 16, 1997, for further information).

Consistent with the apparent Congressional intent behind section 812 of the 1990 CAAA, and with the Environmental Protection Agency's (EPA's) judgments regarding the potential utility of a comprehensive economic assessment of the Clean Air Act, the four fundamental goals of the first Prospective Study to be submitted to Congress are stated succinctly as follows:

(a) To facilitate greater understanding of the value of America's overall investment in clean air, particularly the value of the additional requirements established by the 1990–CAAA,

(b) To facilitate greater understanding of where future investments in air pollution control might yield the greatest reduction in adverse human health and/or environmental effects for the resources expended,

(c) To help evaluate the significance of potential new and emerging information pertaining to the benefits and costs of air pollution control, and

(d) To help identify areas of economic and scientific research where additional effort might improve the comprehensiveness of and/or decrease the uncertainty associated with future estimates of the benefits and costs of air pollution control.

Pursuant to the above four goals, the Agency has embarked on the Prospective Study activities. These activities involve a number of component studies, such as analytical design, scenario development, emissions profiles, air quality modeling, physical effects modeling, direct cost estimation, sector studies, air toxics analysis, economic valuation, comparison of benefits and costs, and report generation. Working drafts of relevant portions of these components, along with focused charges will be presented to the Council and its two subcommittees, the Air Quality Models Subcommittee (AQMS) and the Health and Ecological Effects Subcommittee (HEES), in the upcoming meetings described below. The draft documents that present, compile and document the results and methodologies used for the Prospective Study, including the Appendices to the future draft Prospective Study report, which are the subject of these reviews will be available upon request from the originating EPA office (See below for details).

2a. Air Quality Models Subcommittee

The Air Quality Models Subcommittee (AQMS) of the Advisory Council on Clean Air Compliance Analysis will meet Thursday, January 22, 1998, from 9 a.m. to 5 p.m. and Friday, January 23, 1998 from 9 a.m. to 4 p.m. The meeting will take place in the Science Advisory Board Conference Room 2103 of Waterside Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The public is welcome to attend the meeting on a space-available basis. Additional instructions about how to participate in the public meeting can be obtained by calling Ms. Diana L. Pozun at (202) 260–8432 prior to the meeting.

In this meeting, the Subcommittee plans to review the draft documents pertaining to the Clean Air Act Amendments (CAAA) section 812 Prospective Study data, emissions modeling assumptions, methodology, results and documentation. In previous public teleconference meetings of the Council (See 61 FR 54196, Thursday, October 17, 1996, and 62 FR 10045, Wednesday, March 5, 1997 for further information), the Council advised the Agency staff that the Subcommittee should review the emissions modeling information before proceeding to conduct any model runs. The May 5, 1997 public teleconference (See 62 FR 19320, Monday, April 21, 1997) of the AQMS was conducted for this purpose and produced a letter report (See EPA–SAB–COUNCIL–LTR–97–012, dated September 9, 1997 for further information).

2b. Health and Ecological Effects Subcommittee

The Health and Ecological Effects Subcommittee (HEES) of the Advisory Council on Clean Air Compliance Analysis will meet to review draft documents pertaining to the health and ecological aspects of the Clean Air Act Amendments (CAAA) section 812 Prospective Study data, emissions modeling assumptions, methodology, results and documentation. The Subcommittee will meet on Thursday, January 29, 1998, from 9 a.m. to 5 p.m. and Friday, January 30, 1998 from 9 a.m. to 4 p.m. The meeting will take place in the Administrator's Conference Room 1103 West Tower of Waterside Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The public is welcome to attend the meeting on a space-available basis. Additional instructions about how to participate in the public meeting can be obtained by calling Ms. Diana L. Pozun at (202) 260–8432 prior to the meeting.

2c. Advisory Council on Clean Air Compliance Analysis (the "Council")

The Advisory Council on Clean Air Compliance Analysis (the ''Council'') of the Science Advisory Board (SAB) will meet on Thursday, February 5, 1998 from 9 a.m. to 5 p.m. and Friday, February 6, 1998 from 9 a.m. to 4 p.m. The meeting will take place in the Administrator's Conference Room 1103 West Tower of Waterside Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The public is welcome to attend the meeting on a space-available basis. Additional instructions about how to participate in the public meeting can be obtained by calling Ms. Diana L. Pozun at (202) 260–8432 prior to the meeting. The Council plans to discuss results of the preliminary findings and recommendations of its Air Quality Models Subcommittee (AQMS) and Health and Ecological Effects Subcommittee (HEES) in relation to the emissions estimates, modeling assumptions, methodology, results and documentation of the Prospective Study. The various draft documents pertaining to the draft Prospective Study are not available from the Science Advisory Board, but may be obtained by contacting Ms. Catrice Jefferson (see below for ordering information). To discuss technical aspects of the Prospective Study draft documents, please call Mr. James DeMocker, Office of Air and Radiation (see below for further information).

2d. For Further Information

Please contact the SAB staff (see below) to obtain agendas and to determine the logistics and details of the individual public meetings.

To discuss technical aspects of the draft documents pertaining to the CAA section 812 Prospective Study, please contact Mr. James DeMocker, Office of Policy Analysis and Review (OPAR) (Mail Code 6103), US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Tel. (202) 260–8980; FAX (202) 260–9766, or via the Internet at: democker.jim@epamail.epa.gov. To obtain copies of the draft documents pertaining to the CAA Section 812 Prospective Study, please contact Ms. Catrice Jefferson, Office Manager, Office of Policy Analysis and Review (OPAR), (Mail Code 6103), US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Tel. (202) 260–5580; FAX (202) 260–9766, or via the

Internet at jefferson.catrice @epamail.epa.gov.

To obtain copies of the meeting agendas, please contact Ms. Diana L. Pozun, Secretary to the Council, AQMS and HEES Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; at Tel. (202) 260–8432; FAX (202) 260–7118; or via the Internet: pozun.diana@epamail.epa.gov. To discuss technical or logistical aspects of the Council or its AQMS and HEES subcommittee review process or to submit written comments, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official to the Council, AQMS and HEES, at Tel. (202) 260–2560; FAX (202) 260–7118; or via the Internet: kooyoomjian.jack @epamail.epa.gov. Members of the public who wish to attend these public meetings should contact Ms. Pozun at least one week prior to the meeting of interest to express your intention to attend.

To request time to provide public comments at the meetings, please contact Ms. Diana L. Pozun *in writing* by mail, FAX or E–Mail addresses given above no later than one week prior to each of the meetings.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board (SAB) expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, opportunities for oral comment at meetings will be usually limited to five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting), may be mailed to the Council and its respective AQMS and HEES subcommittees prior to its meeting; comments received too close to the meeting date will normally be provided to the Council and its subcommittees in the meeting. Written comments may be provided up until the time of the meeting.

Dated: December 18, 1997.

Donald G. Barnes, Ph. D.,

Staff Director, Science Advisory Board.

[FR Doc. 97–33613 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34119; FRL 5761–8]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 22, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the seven pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 22, 1998 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000241–00356	Triforine Technical	Triforine	Almonds, apples, apricots, cherries, nectarines, plums,prunes, asparagus, high bush blueberries, cranberries
004581–00280	TOPSIN M Technical	Thiophante-Methyl	Celery
004581–00322	TOPSIN M 70W	Thiophante-Methyl	Celery
004581–00352	TOPSIN M 4.5F	Thiophante-Methyl	Celery
004581–00372	TOPSIN M 85WDG	Thiophante-Methyl	Celery
004581–00377	TOPSIN M WSB	Thiophante-Methyl	Celery
008764–00001	Freshgard 25	Sodium *o*-phenylphenate	Apples, cantaloupes, carrots, cherries, cucumbers, nectarines, peaches, peppers, pineapples, plums, sweet potatoes, tomatoes

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000241	American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08543.
004581	Elf Atochem North America, Inc., 2000 Market Street, Philadelphia, PA 19103.
008764	FMC Corporation, Citrus Systems Division, 1540 Linden St., Riverside, CA 92507.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: December 8, 1997.

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 97–33450 Filed 12–23–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

December 17, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 23, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0348.

Title: Section 76.79, Records available for public inspection.

Form No.: FCC Form 457.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit.

Number of Respondents: 2,125.

Estimated Time Per Response: 2 hours.

Frequency of Response: Recordkeeping requirement.

Cost to Respondents: N/A.

Total Annual Burden: 4,250 hours.

Needs and Uses: Section 76.79 requires that every cable and multichannel video program distributor (MVPD) employment unit maintain, for public inspection, a file containing copies of all annual employment reports and related documents. This collection involves the maintenance of a public inspection file. The Commission does not dictate how these records are to be kept. The data is used by the general public to assess a cable unit's/MVPD's EEO program.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 97–33580 Filed 12–23–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–2639; CC Docket No. 90–571]

Notice of Telecommunications Relay Services (TRS) Applications for State Certification Accepted

Released: December 18, 1997.

Notice is hereby given that the state listed below has applied to the Commission for State Telecommunications Relay Service (TRS) Certification. Current state certifications expire July 25, 1998. Applications for certification, covering the five year period of July 26, 1998 to July 25, 2003, must demonstrate that the state TRS program complies with the Commission's rules for the provision of TRS, pursuant to Title IV of the Americans with Disabilities Act (ADA), 47 U.S.C. 225. These rules are codified at 47 CFR 64.601–605.

Copies of applications for certification are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM. Interested persons may file comments on or before January 20, 1997. Comments should reference the relevant state file number of the state application that is being commented upon. One original and five copies of all comments must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Two copies also should be sent to the Network Services Division, Common Carrier Bureau, 2000 M Street, N.W., Room 235, Washington, D.C. 20554.

Applications received after October 1, 1997, for which no extension has been requested before October 1, 1997, must be accompanied by a petition explaining the circumstances of the late-filing and requesting acceptance of the late-filed application.

File No: TRS–97–50.

Applicant: State of New Hampshire Public Utilities Commission, State of New Hampshire.

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov, or Andy Firth, (202) 418–2224 (TTY), afirth@fcc.gov, at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 97–33579 Filed 12–23–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–2624]

Emergency Alert System National Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix 2) announcement is made of the following advisory committee meeting:

Name of Committee: National Advisory Committee.

Subject: Emergency Alert System.

Date of Meeting: January 27, 1998.

Time of Meeting: 9 am.

Place: National Association of Broadcasters, 1771 N Street, NW., Washington, DC 20036–2891.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Gay, Emergency Alert System Staff, Stop Code 1500B1, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554 (phone: 202-418–1228)(fax: 202–418–2817).

SUPPLEMENTARY INFORMATION: In 1994, the Federal Communications Commission (FCC) established the Emergency Alert System (EAS) to replace the Emergency Broadcast System (EBS). EAS uses various communications technologies, such as broadcast stations and cable systems, to alert the public regarding national, state and local emergencies. At the same time, the FCC added a new part 11 to its rules containing EAS regulations. 47 CFR part 11. The National Advisory Committee (NAC) was established to assist the FCC administer EAS. Its first meeting will be held on January 27, 1998, in Washington, DC, and the general topic will be emergency communication matters relating to EAS.

Summary of Proposed Agenda

—Orientation.
—Remarks by FCC Chairman and/or FCC Defense Commissioner.
—Presentations by the National Weather Service and Federal Emergency Management Agency.
—Review of issues and FCC actions/items concerning EAS.
—Updates on state and local EAS plans.
—EAS working groups.
—Future EAS requirements and NAC recommendations to FCC.
—Other Business.
—Adjournment.

Administrative Matters

Attendance at the NAC meeting is open to the interested public, but limited to space availability. Members of the general public may file a written statement with the FCC at the above contact address before or after the meeting. Members of the public wishing to make an oral statement during the meeting must consult with the NAC at the above FCC contact address prior to the meeting. Minutes of the meeting will be available after the meeting at the above contact address.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 97–33578 Filed 12–23–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Request for Public Comments Regarding Extensions to Existing OMB Clearances

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The FMC is preparing submissions to the Office of Management and Budget (OMB) for continued approval of the following information collections (extensions with no changes) under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. Chapter 35): OMB No. 3072–0055 (Tariffs and Service Contracts); OMB No. 3072–0045 (Agreements); and OMB No. 3072–0001 (Admission to Practice). Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval and will become a matter of public record.

DATES: Comments must be submitted on or before February 23, 1998.

ADDRESSES: Send comments to: Edward P. Walsh, Managing Director, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (Telephone: (202) 523–5800).

FOR FURTHER INFORMATION CONTACT: Send requests for copies of the current OMB clearances to: George D. Bowers, Director Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (Telephone: (202) 523–5834).

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3072–0055 Expires May 31, 1998.

Abstract: Section 8 of the Shipping Act of 1984 requires common carriers and conferences of such common carriers to file with the Commission and keep open for public inspection, tariffs showing all rates, charges, classifications, rules and practices for transportation of cargo between the U.S. and foreign ports. Section 8(c) of the Act also provides for the filing of service contracts and statements of the contracts' essential terms with the Commission. 46 CFR 514 establishes the requirements, format and user charges for the electronic publication, filing and retrieval of tariffs, as well as service contracts and their essential terms, covering the transportation of property performed by common carriers in the foreign commerce of the United States and by combinations of such common carriers, including through transportation offered in conjunction with one or more carriers not otherwise subject to the Shipping Act of 1984.

Needs and Uses: In order to effectively discharge its statutorily-assigned duties, the Commission uses filed tariff and service contract data for surveillance and investigatory purposes, and, in its proceedings, adjudicates related issues raised by private parties.

Frequency: The publishing and filing of tariffs and the filing of service contracts are not assigned a specific time frame by the Commission; they are submitted as circumstances warrant. That is, a common carrier or conference of such carriers can only charge its customers rates that are on file with the Commission. Rate increases must be filed on 30 days notice, while decreases can be filed to take effect on immediate notice.

Type of Respondents: Common carriers by water are persons who hold themselves out to the general public to provide transportation by water of cargo between the United States and a foreign country for compensation, who assume the responsibility for the transportation from origin to destination and use a vessel operating on the high seas or the Great Lakes between a U.S. port and a foreign country.

Number of annual respondents: The Commission estimates an annual respondent universe of 3,267. This number varies as persons file tariffs.

Estimated time per response: The average time for preparing and filing tariffs and service contracts is estimated at 122 person hours. Estimated time per respondent for recordkeeping requirements is estimated at 6 person hours.

Total Annual Burden: The Commission estimates the manhour burden to file foreign tariffs, service contracts and essential terms at 399,829; recordkeeping requirements are estimated at 12,080 person hours.

OMB Approval Number: 3072–0045 (Expires May 31, 1998).

Abstract: The Shipping Act of 1984, 46 U.S.C. app. § 1701 *et seq.*, requires certain classes of agreements between and among ocean common carriers and marine terminal operators to be filed with the Commission, specifies the mandatory content of those agreements, and defines the Commission's authorities and responsibilities in overseeing these agreements. 46 CFR 572 establishes the form and manner for filing agreements and for the underlying commercial data necessary to evaluate agreements.

Needs and Uses: Under its pre-effective review process, the Commission reviews agreement filings to determine statutory and regulatory compliance, as well as to assess their anticompetitive impact. After agreements becomes effective, the Commission monitors agreement activities to ensure continued statutory and regulatory compliance. To accomplish this, the Commission continually gathers, reviews, and interprets commercial data regarding the impact of agreements on competition, prices, and service in the U.S. foreign commerce.

Frequency: The Commission has no control over how frequently agreements are entered into; this is solely a matter between the negotiating parties. When parties do reach an agreement that falls under the jurisdiction of the 1984 Shipping Act, that agreement must be filed with the Commission. Ongoing surveillance of agreement activities is conducted through the review of minutes and quarterly monitoring reports filed by the more anticompetitive agreements.

Type of Respondents: Parties that enter into agreements subject to the Commission's oversight are ocean common carriers and marine terminal operators operating in the foreign oceanborne commerce of the United States.

Number of Annual Respondents: Over the last five years the Commission has averaged 358 agreement filings a year from an estimated potential universe of 764 regulated entities. Starting in mid-1996, certain agreements are required to file quarterly monitoring reports under these regulations. The number of annual respondents under this program will vary according to the number of agreements subject to the reporting obligation. Last year, 235 agreements were subject; they filed 940 monitoring reports.

Estimated Time Per Response: The time for preparing and filing an agreements can range anywhere from as little as three staff-hours to as much as 150 staff-hours. The estimated average burden per respondent is 90 staff-hours. Time required for preparing monitoring reports varies according to the complexity of the filing obligation. Class C agreements have the least burden, and it is estimated to be about 20 staff-hours. Class A/B agreements require more specific data and hence a greater burden. It is estimated that Class B monitoring reports require about 120 staff-hours, and Class A reports about 160 staff-hours. Estimated time per respondent under the record-keeping obligations of the regulation is five staff-hours.

Total Annual Burden: The total annual burden on respondents is estimated at 115,000 staff-hours, 110,000 staff-hours as the filing burden, and 5,000 staff-hours as the record-keeping burden. These estimates are based on anticipated filings over the next year.

OMB Approval Number: 3072–0001 (Expires May 31, 1998).

Abstract: Qualified persons who desire to practice before the Commission must complete and file Form FMC–12 (Application for Admission to Practice before the Federal Maritime Commission) with the Commission.

Needs and Uses: The Commission uses data contained in the application to determine to whether applicant have the necessary qualifications to enable them to represent others in matters before the Commission.

Frequency: The collection of the information is on a one-time only basis.

Type of Respondents: Persons desiring to practice before the Commission in quasi-judicial hearings.

Number of annual respondents: The Commission estimates there are approximately 10 respondents annually for this one-time response.

Estimated Time per response: Approximately one hour.

Total Annual Burden: Ten manhours per year.

Before the Commission submits these renewal packages to the Office of Management and Budget, the Commission is inviting public, written comments on: (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates for the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33615 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–010714–023

Title: Trans-Atlantic American Flag Liner Operators

Parties:

Farrell Lines Incorporated
Lykes Lines Ltd., LLC
Sea-Land Service, Inc.

Synopsis: The proposed amendment would sectionalize the Agreement's geographic scope into three subsections and would provide for sectional membership, voting, independent action, and service contracting. A member not participating in a section to which it otherwise provides service would be free to act unilaterally with respect thereto. The amendment also makes a number of nonsubstantive, administrative changes to the Agreement.

Agreement No.: 203–011325–013

Title: Westbound Transpacific Stabilization Agreement
Parties:
American President Lines, Ltd.
Evergreen Marine Corporation
Hanjin Shipping Co., Ltd.
Hapag-Lloyd Container Linie GmbH
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Synopsis: The proposed modification provides for the parties to exchange their rates on wastepaper and metal scrap, to charge only the rates and changes so declared, and to be subject to neutral body policing.

Agreement No.: 203–011506–001
Title: Matson/APL Space Sharing Agreement
Parties:
Matson Navigation Company, Inc.
American President Lines, Ltd.
Synopsis: The proposed modification expands the geographic scope of the parties' space sharing agreement include ports and points in Mexico. The modification also revises the vessels to be used under the agreement and provides for other conforming arrangements in connection with equipment interchange and stevedoring/terminal services.

Agreement No.: 202–011528–006
Title: Japan/U.S. Eastbound Freight Conference
Parties:
American President Lines, Ltd.
Hapag-Lloyd Container Line GMBH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines Limited
Orient Overseas Container Line (U.S.A.)
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Wilhelmsen Lines AS
Synopsis: The proposed amendment provides that P&O Nedlloyd, B.V. and P&O Nedlloyd Limited shall be considered a single member for voting and quorum purposes in conducting the Agreement's business.

Agreement No.: 224–200147–005
Title: Jacksonville Port Authority/Sea-Land Service, Inc., Marine Terminal Agreement
Parties:
Jacksonville Port Authority
Sea-Land Service, Inc.
Synopsis: The proposed modification permits Sea-Land to exercise its renewal option by extending the terms until October 31, 2001. In addition, the modification amends Section 4, Rental, in its entirety; revises Exhibit D—Throughput Rates; and increases the fees and charges for the rental and throughput rates.

Dated: December 18, 1997.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33506 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 97–24]

Trade Net, Inc. v. Cho Yang Shipping Co., LTD.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Trade Net, Inc. (''Complainant'') against Cho Yang Shipping Co., Ltd. (''Respondent'') was served December 19, 1997. Complainant alleges that Respondent has violated section 8(c) of the Shipping Act of 1984 (''the Act''), 46 U.S.C. app. § 1707, by failing and refusing to make available the essential terms of a service contract to Complainant, a similarly situated shipper, on the same basis as they have been made applicable to the original contract shipper.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue in such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by December 21, 1998, and the final decision of the Commission shall be issued by April 20, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33614 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Small Business Regulatory Enforcement Fairness Act: Implementation

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: On March 29, 1996, Public Law 104–121 was enacted. Title II of the bill, called the ''Small Business Regulatory Enforcement Fairness Act of 1996'' (''SBREFA''), affects the Federal Maritime Commission's (''Commission'') rulemaking procedures and will attach additional requirements to other Commission regulatory activity that may impact upon small businesses.

This Notice defines ''small business'' for Commission regulatory purposes; announces new procedures for rulemakings affecting small businesses; and establishes two programs required by SBREFA: (1) A program for responding to certain informal inquiries from small businesses; and (2) a policy regarding reduction or waiver of civil penalties in certain cases involving small businesses.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Vern W. Hill, Director, Bureau of Enforcement, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5783.

SUPPLEMENTARY INFORMATION: Sections 202–245, Title II of Public Law 104–121, effective June 27, 1996, place a number of obligations on the Commission whenever it regulates ''small business concerns'' as defined by 15 U.S.C. 632 and regulations issued thereunder by the Small Business Administration (''SBA'').

''Small Business '' Defined

Initially, the Commission must decide whether to adopt the SBA's definitions of ''small business'' as being appropriate for the Commission's regulatory purposes. Alternatively, the Commission may, after consultation with the Office of Advocacy of the SBA, and after providing opportunity for public comment, establish its own standards for determining which of its regulated entities should appropriately be considered small businesses within the context of Commission regulation,

and publish such standards in the **Federal Register**.

To make that initial determination, the Commission reviewed SBA classifications and standards, and consulted with the SBA's Office of Advocacy. From these sources, we learned that SBA definitions, classifications and standards are intended to be as inclusive of small businesses as possible; a purpose which does necessarily coincide with the Commission's regulatory mandate.

The SBA catalogues businesses along industry lines using the Standard Industrial Classification Manual (''SIC'') published by the Executive Office of the President, Office of Management and Budget. SBA then, in accordance with its regulations at 13 CFR 121.201, determines which entities in each classification are small business establishments based upon the number of their employees or the establishment's annual receipts in millions of dollars.

The Commission identified the following SIC categories and codes as falling within our regulatory jurisdiction:

4412 Deep Sea Foreign Transportation of Freight (Vessel Operating Common Carriers—''VOCCs'')
4481 Deep Sea Transportation of Passengers (Passenger Vessel Operators—''PVOs'')
4491 Marine Cargo Handing (Marine Terminal Operators—''MTOs'')
4731 Arrangement of Transportation of Freight and Cargo (Ocean Freight Forwarders—''OFFs''; and Non-Vessel Operating Common Carriers—''NVOCCs'')

Business entities in Categories 4412 and 4481, VOCCs and PVOs, are evaluated by SBA according to their number of employees. The SBA has determined that if such business establishments have less than 500 employees, they qualify as a small businesses for SBA purposes. Business establishments in Categories 4491 and 4731, NVOCCs, OFFs and MTOs, are evaluated by their annual receipts in millions of dollars. For these categories, SBA determined that business establishments with annual receipts (gross annual revenues) or less than $18.5 million are small businesses.

As stated, the Commission could accept these SBA standards and treat VOCCs and PVOs having fewer than 500 employees, and MTOs, OFFs and NVOCCS having less than $18.5 million in gross annual revenues, as small businesses; or, following established procedures, we could develop our own standards more closely oriented to the Commission's regulatory framework.

The dilemma is that, unlike other agencies which may choose to develop their own standards, the Commission neither collects nor maintains any data regarding the number of employees or gross annual revenues of the entities it regulates. Indeed, we have no preexisting regulatory purpose for doing so. Thus, for the Commission to create standards by which to define ''small businesses'', and to determine which regulated entities fall within those standards, a major collection of data from all industry segments would have to be undertaken. Moreover, many of the Commission's regulated entities are foreign domiciles from whom such data is not readily accessible. Even assuming sufficient data could be obtained by the Commission, the collection and requisite economic analysis of that data would entail an unfeasible expenditure of time and resources. For these reasons, the Commission has determined to adopt the SBA's inclusive standards. Thus, in the future, the Commission will be considering the small business impact of many of its regulatory undertakings.

However, it is apparent that many Commission regulated entities are VOCCs, PVOs and MTOs which generally are very large companies with far in excess of 500 employees, in the case of VOCCs and PVOs, and $18.5 million in gross revenues in the case of MTOs. These companies, as well as conferences or associations of such companies, generally represented by retained counsel, frequently raise, informally, complex issues responding to which involves considerable Commission time and effort. Such entities are not the intended small business beneficiaries of SBREFA.

Accordingly, the Commission is making a rebuttable presumption that VOCCs and PVOs, as well as conferences and associations comprised of VOCC and PVO members, have more than 500 employees, and that MTOs at United States ports, as well as conferences and associations of such MTOs, earn gross revenues in excess of $18.5 million per year. Thus, VOCCs, PVOs and MTOs are presumed not to be small businesses encompassed within the programs and policies mandated by SBREFA.

Nevertheless, any VOCC or PVO with fewer than 500 employees, or any MTO with less than $18.5 million in gross annual revenues, that seeks to be treated as a small business for Commission regulatory purposes, may submit a request to such treatment to the Secretary of the Commission, along with payroll or gross annual revenues evidence, as applicable, sufficient to substantiate its claim and rebut the presumption.

Rulemaking Affecting Small Businesses

Section 241 of Title II amends the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603, and sets forth additional requirements applicable to rulemaking proceedings that will have a significant economic impact on a substantial number of small businesses. Under section 242, small businesses now can seek judicial review of Commission compliance with RFA requirements.

Compliance Guides

As required by section 212, each rule promulgated by the Commission in the future that significantly affects a substantial number of small businesses will include a ''compliance guide'' to assist small businesses in complying with that rule. The content of the compliance guide may be taken into account by a reviewing court ''as evidence of the reasonableness or appropriateness'' of any proposed penalties for noncompliance with the rule.

Negative Certifications and Regulatory Flexibility Analyses

The RFA requires federal agencies either to certify that a '' * * * rule will not have a significant economic impact on a substantial number of small entities'', or to prepare a regulatory flexibility analysis. Because there are no developed standards or decisional guidelines available for measuring ''significant economic impact'' or ''substantial number of small entities'', the meaning of those terms will be developed on a case by case basis.

If a proposed rule will not have a significant economic impact on a substantial number of small entities, either adverse or beneficial, an initial regulatory flexibility analysis is not required. In these instances, the RFA authorizes the Commission's Chairman to make a negative certification with respect to that rulemaking. To make this threshold determination, the Commission will undertake a preliminary analysis to evaluate the economic impact of a proposed rule on small business entities. Once this preliminary analysis is completed, the Commission either will make a negative certification or undertake an initial regulatory flexibility analysis. A certification of a finding of no significant impact on a substantial number of entities will be published with the proposed rule in the **Federal Register** and will be accompanied by an explanation of the factual and economic bases for the certification. The negative

certification is subject to judicial review.

When a proposed rule is expected to have a significant economic impact, beneficial or adverse, on a substantial number of small entities, an initial regulatory flexibility analysis will be prepared. The initial regulatory flexibility analysis or a summary of it will be published in the **Federal Register** with the proposed rule.

Under section 603(b) of the RFA, each initial regulatory flexibility analysis is required to address: (1) reasons why the agency is considering the action, (2) the objectives and legal basis for the proposed rule, (3) the kind and number of small entities to which the proposed rule will apply, (4) the projected reporting, record keeping and other compliance requirements of the proposed rule, and (5) federal rules that may duplicate, overlap or conflict with the proposed rule. In addition, each initial regulatory flexibility analysis must describe any significant alternatives to the proposal that accomplish the statutory objectives and minimize the significant negative economic impact of the proposal on small entities.

When the Commission issues a final rule, it will prepare a final regulatory flexibility analysis or certify that the rule will not have a significant economic impact on a substantial number of small entities. A final regulatory flexibility analysis will discuss the comments received, the alternatives considered and the rationale for the final rule. The analysis itself or a summary thereof will be published in the **Federal Register** with the final rule. The final regulatory flexibility analysis is subject to judicial review.

Programs and Policies To Address Small Business Concerns

SBREFA requires:

(1) That the Commission establish a program for responding to informal compliance inquiries from small businesses (section 213); and (2) That the Commission establish a policy or program for reduction or waiver of civil penalties for violations by small businesses of statutory or regulatory requirements (section 223).

Program to Respond To Informal Inquiries From Small Businesses

The staff of the Commission has always responded informally to telephonic inquiries from the regulated public. Such inquiries are received daily, and often are handled routinely. Many inquiries involve simple questions regarding matters such as tariff filings, licensing and bonding, as well as procedural matters. Others are far more complex and time consuming, involving contingencies and variables that must be clarified or resolved even before the precise issue can be identified. Most often, the latter type inquiries, and those requiring lengthy discussions and follow-up discussions, are from VOCCs, PVOs and MTOs through their retained counsel. For the same reasons discussed above, the Commission does not consider inquiries from these sources to be within the contemplation of the informal inquiry program required by SBREFA.

While the Commission will continue to provide informal assistance to all persons subject to its jurisdiction, with respect to inquiries from small businesses, current practices are being augmented because of SBREFA's new requirements that:

(1) After 2 years, the Commission must report on the scope of the Commission's program and the achievements of the program in assisting small businesses to comply with agency statutes and regulations; and

(2) The agency may be held accountable for the content of its advice regarding an inquirer's compliance with statutory or regulatory requirements. The substance of such advice can be raised in any subsequent appeal of a civil penalty imposed against a participating small business entity.

In accordance with SBREFA, and because of its reporting and accountability provisions, the Commission is establishing the following procedures:

Small businesses subject to Commission jurisdiction are invited to make informal inquiries regarding the lawfulness of their own activities. This program will apply to those small busineses that, at the time fo the inquiry, identify themselves and the type of their business operations, for example, NVOCC or OFF.

Inquiries may be submitted by telephone, letter or e-mail depending upon the nature and complexity of the inquiry as determined, ultimately, by the person receiving the inquiry. Additional information may be required and requested. Responses will be prvovided by telephone, letter or e-mail, as appropriate in the opinion of the person responding.

The program goal is to provide prompt telephonic advice when possible, or a written response within 20 days of the date that all necessary information has been received. The Commission will make and retain records of each informal inquiry made under this program in order to document the name and description of the inquirer, relevant dates, and the substance of the inquiry and the response thereto.

Depending on subject matter, inquiries by entities that are small businesses shall be submitted to the following individuals at the Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001; or at the telephone number or e-mail address listed below:

PASSENGER VESSEL CERTIFICATION

Theodore A. Zook .....202–523–5856; Theoz@fmc.gov
Curt L. Ohlsson .....202–523–5856; Curto@fmc.gov

OCEAN FREIGHT FORWARDERS

Betty J. Bennett .....202–523–5843; Bettyb@fmc.gov
Elnora V. Howard .....202–523–5843; Elnora@fmc.gov

VOCC, NVOCC and MTO TARIFF MATTERS

James G. Cannon .....202–523–5818; Jamesg@fmc.gov
Roland E. Ramlow .....202–523–5818; Rolandr@fmc.gov
Martin W. Wilson.....202–523–5818; Martinw@fmc.gov
Ernest L. Estes .....202–523–5818; Erneste@fmc.gov
James H. McEachin .....202–523–5818; Jamesmc@fmc.gov

SERVICE CONTRACT MATTERS

Theodore A. Zook .....202–523–5856; Theoz@fmc.gov
Mamie H. Black.....202–523–5856; Mamieb@fmc.gov
Roland E. Ramlow .....202–523–5856; Rolandr@fmc.gov

AUTOMATED TARIFF FILING AND INFORMATION (''ATFI'') REGISTRATIONS

Anne E. Trotter .....202–523–5818; Anne@fmc.gov
Hattie R. Broadnax.....202–523–5818; Hattieb@fmc.gov

ATFI ACCESS, USE AND FEES

Pat N. Gorski .....202–523–5834; Pat@fmc.gov

AGREEMENT MATTERS

Jeremiah D. Hospital.....202–523–5793; Jeremiah@fmc.gov

TRADE MONITORING MATTERS

Frank J. Schwarz .....202–523–5845; Franks@fmc.gov

The Office of Informal Inquiries, Complaints and Informal Dockets (''OIIC'') (Telephone: 202–523–5807, E-mail: Josephf@fmc.gov) will continue to receive informal complaints and will attempt informally to resolve related disputes. OIIC also will be the

designated recipient of inquiries from small businesses under SBREFA with respect to subjects not specified above.

Questions regarding the Commission's Rules of Practice and Procedure, 46 CFR Part 502, do not fall within the scope of this program and should be directed to the Office of the Secretary (202–523–5725). Other requests for assistance from persons not covered by SBREFA, as in the past, may be directed, as applicable, to the Office of the General Counsel (202–523–5740), Bureau of Enforcement (202–523–5783), Bureau of Economics and Agreement Analysis (202–523–5787) or the Bureau of Tariffs, Certification and Licensing (202–523–5796; FMCBTCL@fmc.gov).

Reduction or Waiver Of Civil Penalties for Violations by Small Business

As stated above, SBREFA (§ 223) requires that the Commission establish a policy for reduction or waiver of civil penalties for statutory or regulatory violations by small businesses. Within two years, the Commission must report to four Congressional Committees on: (1) The scope of the policy or program; (2) the number of enforcement actions that qualified or failed to quality for the program or policy; and (3) the total amount of penalty reductions and waivers granted. SBREFA and its legislative history suggest certain approaches, i.e., consider ability to pay; consider good faith shown by the small business; require that the violation be discovered through an agency supported compliance assistance program; and allow for violations to be corrected within a reasonable time. Repeat offenses or violations involving willful or criminal conduct are not intended to be included within the policy.

Reduction of Civil Penalties

The Commission already is subject to statutory requirements with regard to civil penalties, including consideration of a respondent's ability to pay, as well as its size and financial condition and the circumstances of the violation. The Commission has followed those requirements in the past and will continue to do so in the future. In addition, appropriate records will be maintained so that the Commission can fulfill its responsibility to file requisite reports to Congress.

Voluntary Compliance and Waiver of Civil Penalties

The Commission has established an internal policy, to be used in appropriate cases, to obtain ''voluntary'' compliance by, and waiver of civil penalties against, small businesses found to be violating Commission statutes or regulations.

Under this program, each subject of an investigation will be evaluated to determine whether, in the circumstances of that particular case, a demand for civil penalties, or compliance and waiver of civil penalties, would be the more effective regulatory tool. In making this determination, the following factors will be considered:

1. Whether the violation was knowing and willful, involved fraud or financial gain or caused injury to the public;
2. The subject's history of prior offenses;
3. Extent to which the subject demonstrates a good faith desire to comply with Commission requirements in the future; and
4. The subject's ability to pay a civil penalty.

Appropriate records will be maintained in order for the Commission to fulfill its responsibility for filing required reports to Congress.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33560 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3154]

Honeywell Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 23, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Linda K. Badger, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

Kerry O'Brien, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

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 of Practice (16 CFR 2.34), notice is hereby given that the above-captioned 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. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for December 17, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. 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 Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Honeywell Inc. (''Honeywell'') a Delaware corporation.

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 and take other appropriate action or make final the agreement's proposed order.

Honeywell manufacturers and markets various types of air cleaning products, including a line of portable, room air cleaners. These ''Honeywell Air Purifiers'' include an ''enviracaire® True HEPA filter.'' The Commission's complaint charges that respondent's advertising for the Honeywell Air Purifier included unsubstantiated claims of efficacy and allergy relief. Specifically, the complaint alleges that the respondent did not possess adequate

substantiation for claims that: (1) The filter in a Honeywell Air Purifier removes 99.97% of mold spores, dust mite allergens, bacteria and viruses from the air that people breathe under household living conditions; (2) The filter in a Honeywell Air Purifier removes nearly all or 99.97% of impurities from the air that people breathe under household living conditions; (3) Consumers who use a Honeywell Air Purifier that changes the air in a room six or more times per hour will experience noticeable symptom relief from allergies and other respiratory problems; and (4) Honeywell Air Purifiers provide proven relief from allergy symptoms.

According to the proposed complaint, the 99.97% figure used in Honeywell's advertisement refers to the filter's expected efficiency in removing particles that actually pass through the filter. While the filter's efficiency is a factor in assessing the effectiveness of an air purifier in particulate removal, this figure overstates the actual effectiveness of the air purifier in removing pollutants from the air in a user's environment. The actual effectiveness of an air purifier, according to the proposed complaint, depends on a variety of factors including, the amount of air that the air purifier processes, the nature of the pollutant, and the rate at which the pollutant is being introduced into the environment.

Additionally, with respect to the allergy relief claims made by Honeywell, the proposed complaint states that there is no guarantee that an individual who suffers from allergies or other respiratory problems will derive a discernible reduction in symptoms through the use of these or other air purifiers. Whether individuals will derive such relief depends on many variables including, the source and severity of their allergies, whether the allergens at issue tend to remain airborne, the rate at which the allergens are emitted into their homes or offices, and other environmental factors.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future.

Part I of the proposed order would prohibit Honeywell from making certain efficacy claims about Honeywell Air Purifiers, enviracaire® True HEPA filters, or any other air cleaning product which is normally used for personal, family, or household purposes, unless at the time of making the claims it possesses and relies upon competent and reliable scientific evidence. Furthermore, claims that state or imply a level of performance under any set of conditions, such as household loving conditions, must be substantiated by evidence that either relates to such conditions or that was extrapolated to such conditions by generally accepted procedures. The specific claims covered by Part I include any representation: (1) about such products's ability to eliminate, remove, clear, or clean any quantity of indoor air contaminants under household living conditions; and (2) that such product will perform under any set of conditions, including household living conditions.

Part II of the proposed consent order includes fencing-in relief, requiring that Honeywell possess competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, for any claim about the performance, health or other benefits, or efficacy of any air cleaning product which is normally used for personal, family, or household purposes.

The proposed order also requires that respondent to maintain materials relied upon to substantiate claims covered by the order; to provide a copy of the consent agreement to all employees or representatives involved in the preparation and placement of the company's advertisements, as well as to all company executives and marketing and sales managers; to notify the Commission of any changes in corporate structure that might affect compliance with the order; and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–33575 Filed 12–23–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

[GAO/AIMD–98–21.3.1]

Standards for Internal Control in the Federal Government

AGENCY: General Accounting Office.

ACTION: Notice of document availability.

SUMMARY: The General Accounting Office (GAO) is seeking public comment on the proposed ''Standards for Internal Controls in the Federal Government dated December 1997.'' The proposed standards are being issued to update the 1983 ''Standards for Internal Controls in the Federal Government.'' The proposed standards incorporate the existing standards and the components of internal control covered in *Internal Control—Integrated Framework,* Committee of Sponsoring Organizations of the Treadway Commission (COSO), September 1992. The proposed standards are intended to assist program and financial managers achieve the internal control objectives of their organizations. This notice indicates that the proposed standards are available from GAO for review and comment.

DATES: Comments must be received by March 11, 1998.

ADDRESSES: Copies of the internal control standards draft are available by (1) pick-up at Document Distribution, U.S. General Accounting Office, Room 1100, 700 4th Street, NW. (corner of 4th and G Streets, NW.), Washington, DC; (2) mail from U.S. General Accounting Office, P.O. Box 37050, Washington, DC 20013; (3) phone at 202–512–6000 or FAX 202–512–6061 or TDD 202–512–2537; or (4) on GAO's home page (http://www.gao.gov) on the Internet. Comments should be addressed to the Robert W. Gramling, Director, Corporate Audits and Standards, Accounting and Information Management Division, U.S. General Accounting Office, 441 G Street NW., Room 5089, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Robert W. Gramling, 202–512–9406.

SUPPLEMENTARY INFORMATION: Beginning with the Accounting and Auditing Act of 1950, agency heads have been required to establish and maintain effective internal control. Since then, other laws have required renewed focus on internal control. The Federal Managers' Financial Integrity Act (FMFIA) of 1982, for example, requires agency heads periodically to evaluate their systems of internal control, using the guidance issued by the Office of Management and Budget, and to prepare a report on whether their systems conform to the standards issued by the GAO. Most recently, the Federal Financial Management Improvement Act (FFMIA) of 1996, in focusing on financial management systems, identified internal control as an integral part of those systems. The OMB Circular A–123, ''Management Accountability and Control,'' June 21, 1995, provides the requirements for assessing controls. Over the years, GAO has issued numerous publications to assist agencies in establishing and maintaining effective internal control systems. In 1983, GAO drew on its

previously issued guidance and experts throughout government, private sector, and academic communities to develop and issue ''Standards for Internal Controls in the Federal Government'' to facilitate implementation of FMFIA. Although those standards remain conceptually sound and are used throughout the federal government, this update enhances the standards by recognizing recent internal control evaluation guidance developed by the private sector with assistance from GAO and others, as well as to giving greater recognition to the increasing use of information technology.

The internal control standards contained in the proposed standards follow the COSO guidance closely and refer to portions of OMB Circular A–123 that provide guidance for evaluating internal control. However, two of the standards concerning management reporting on internal control and resolution of audit findings are standards not addressed by COSO but reflect the public's demand for a high level of accountability for government stewardship of resources. These two standards are currently required by law and by the existing internal control standards. Appendix II cross-references the existing standards with those proposed in the document.

Comments received will be reviewed and the proposed standards will be revised as necessary. Publication of the final standards will be announced in the **Federal Register**.

Gene L. Dodaro,

Assistant Comptroller General for Accounting and Information Management.

[FR Doc. 97–33623 Filed 12–23–97; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Cooperative Agreement With the National Academy of Sciences

AGENCY: Office of Public Health and Science.

ACTION: Notice.

SUMMARY: On behalf of the Public Health Service agencies (PHS), the Office of Public Health and Science has entered into a cooperative agreement with the National Academy of Sciences to provide core support for activities in a number of health areas, including health promotion and disease prevention; health care services; neuroscience and behavioral health; health sciences policy; food and nutrition; international health; radiation effects research; environmental studies and toxicology; and children, youth and families. The purpose of this cooperative agreement is to provide access to expertise regarding matters of interest to PHS, including independent advice on how complex issues might be defined and addressed in discrete studies and on planning to address the problems and issues identified.

FOR FURTHER INFORMATION CONTACT: Cindy Oswald, Contract Specialist, Program Support Center, AOS/Division of Acquisition Management, 5600 Fishers Lane, Room 5–101, Rockville, Maryland 20857, for information about this program, and Linda Meyers, Ph.D., Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738–G, 200 Independence Avenue, S.W., Washington, DC 20201, for programmatic technical assistance.

SUPPLEMENTARY INFORMATION: Approximately $450,000 will be available in FY 1998 to support this project. This award was effective December 1, 1997, for a 12-month budget period with a project period of 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made if progress is satisfactory and funds are available.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, an HHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to objectives in nearly all priority areas. (To order a copy of ''Healthy People 2000: Midcourse Review and Revisions,'' contact the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954; Telephone (202) 512–1800; Internet address: http://www.access.gpo.gov/index.html.)

Authority

This program is authorized under Sections 301 and 1701 of the Public Health Act.

Smoke-free Workplace

The PHS strongly encourages all funding recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children's Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to the children.

Eligible Applicant

Assistance was provided only to the National Academy of Sciences, Washington, D.C. No other applications were solicited. The National Academy of Sciences (NAS) is the only organization that has the ability to assemble such National scientific expertise in a range of health-related fields to furnish independent advice and guidance of the highest quality with an unparalleled level of objectivity. This combination of advice and objectivity is a distinct asset to the PHS in carrying out its mission.

Catalog of Federal Domestic Assistance Number

A Catalog of Federal Domestic Assistance Number is not required because the project is the only one funded in this activity.

Executive Order 12372 Review

This application is not subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Dated: December 17, 1997.

Susanne A. Stoiber,

Acting Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion).

[FR Doc. 97–33504 Filed 12–23–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Availability

AGENCY: Office of Disease Prevention and Health Promotion, Office of Public Health and Science.

ACTION: Commission on Dietary Supplement Labels: Notice of Availability of Final Report.

SUMMARY: The Department of Health and Human Services (HHS) is providing notice of the availability of the Report of the Commission on Dietary Supplement Labels.

DATES: The final report of the Commission on Dietary Supplement Labels was delivered to the Secretary, Health and Human Services, the President, and Congress on November 24, 1997.

FOR FURTHER INFORMATION CONTACT:

The final report of the Commission is available from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954 (202–512–1800) (Stock Number 017–001–00531–2). The final report is also available on the INTERNET at *http://web.health.gov/dietsupp/*. For additional information, contact Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave. S.W., Washington, D.C. 20201, (202) 690–5526 or facsimile (202–205–0463).

SUPPLEMENTARY INFORMATION: Public Law 103–417, Section 12, authorized the establishment of a Commission on Dietary Supplement Labels whose seven members were appointed by the President in November, 1995. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission has conducted a study that provides recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission has also considered how best to provide truthful, scientifically valid, and non-misleading information to consumers in order that they may make informed health care choices for themselves and their families.

In accordance with the provisions of its Charter, dated February 13, 1997, delivery of the Commission's final report constitutes completion of the function of the Commission. Accordingly, the Commission has been discharged.

Dated: December 11, 1997.

Susanne A. Stoiber,

Acting Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 97–33502 Filed 12–23–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–131]

Availability of Final Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of three new final and eight updated final toxicological profiles of priority hazardous substances comprising the ninth set prepared by ATSDR.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6322.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for ATSDR and the Environmental Protection Agency (EPA) with regard to hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the priority lists of hazardous substances. These lists identified 275 hazardous substances that ATSDR and EPA determined pose the most significant potential threat to human health. The availability of the revised list of the 275 most hazardous substances was announced in the **Federal Register** on November 17, 1997 (62 FR 61332). For prior versions of the list of substances see **Federal Register** notices dated April 29, 1996 (61 FR 18744); April 17, 1987 (52 FR 12866); October 20, 1988 (53 FR 41280); October 26, 1989 (54 FR 43619); October 17, 1990 (55 FR 42067); October 17, 1991 (56 FR 52166); October 28, 1992 (57 FR 48801); and February 28, 1994 (59 FR 9486).

Notice of the availability of drafts of the ninth set of toxicological profiles for public review and comment was published in the **Federal Register** on October 30, 1995 (60 FR 55272), with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of each comment period, chemical-specific comments were addressed, and where appropriate, changes were incorporated into each profile. The public comments and other data submitted in response to the **Federal Register** notice bear the docket control number ATSDR–102. This material is available for public inspection at the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia, (not a mailing address) between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays.

Availability

This notice announces the availability of three new final and eight updated final toxicological profiles comprising the ninth set prepared by ATSDR. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone 1–800–553–6847. There is a charge for these profiles as determined by NTIS.

Toxicological profile	NTIS order No.	CAS No.
Ninth Set:		
1. BENZENE (UPDATE)	PB98–101157	000071–43–2
2. CHLORFENVINPHOS	PB98–101116	000470–90–6
3. CHLOROFORM (UPDATE)	PB98–101140	000067–66–3
4. CHLORPYRIFOS	PB98–103088	002921–88–2
5. CYANIDE (UPDATE)	PB98–101207	000057–12–5
AMMONIUM THIOCYANATE		001762–95–4
CYANAZINE		021725–46–2
HYDROGEN CYANIDE		000074–90–8
SODIUM CYANIDE		000143–33–9

Toxicological profile	NTIS order No.	CAS No.
THIOCYANATE		000302–04–5
POTASSIUM CYANIDE		000151–50–8
CALCIUM CYANIDE		000592–01–8
COPPER(I) CYANIDE		000544–92–3
POTASSIUM SILVER CYANIDE		000506–61–6
CYANOGEN		000460–19–5
CYANOGEN CHLORIDE		000506–77–4
6. DICHLORVOS	PB98–101124	000062–73–7
7. NICKEL (UPDATE)	PB98–101199	007440–02–0
NICKEL CHLORIDE		007718–54–9
NICKEL OXIDE		001313–99–1
NICKEL SULFATE		007786–81–4
NICKEL SUBSULFIDE		012035–72–2
NICKEL ACETATE		000373–02–4
NICKEL NITRATE		013138–45–9
8. POLYCHLORINATED BIPHENYLS (UPDATE)	PB98–101173	001336–36–3
AROCLOR 1016		012674–11–2
AROCLOR 1221		011104–28–2
AROCLOR 1232		011141–16–5
AROCLOR 1242		053469–21–9
AROCLOR 1248		012672–29–6
AROCLOR 1254		011097–69–1
AROCLOR 1260		011096–82–5
AROCLOR 1262		037324–23–5
AROCLOR 1268		011100–14–4
9. TETRACHLOROETHYLENE (UPDATE)	PB98–101181	000127–18–4
10. TRICHLOROETHYLENE (UPDATE)	PB98–101165	000079–01–6
11. VINYL CHLORIDE (UPDATE)	PB98–101132	000075–01–4

Dated: December 17, 1997.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–33507 Filed 12–23–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency For Toxic Substances and Disease Registry

[ATSDR–132]

Availability of Final Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of nine final toxicological profiles on unregulated hazardous substances prepared by ATSDR for the Department of Defense.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6322.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499) amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) or CERCLA. Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) and (b) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of Health and Human Services of not less than 25 of the most commonly found, unregulated hazardous substances at defense facilities. The Secretary of HHS shall take necessary steps to ensure the timely preparation of toxicological profiles of these substances. Each profile includes an examination, summary and interpretation of available toxicological information and epidemiological evaluations. This information and these data are used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles include a determination of whether adequate information on the health effects of each substance is available or under development. When adequate information is not available, in cooperation with the National Toxicology Program (NTP), ATSDR may plan a program of research designed to determine these health effects.

Notice of the availability of nine new draft toxicological profiles for public review and comment was published in the **Federal Register** on October 18, 1994 (59 FR 52549), with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of each comment period, chemical-specific comments were addressed, and where appropriate, changes were incorporated into each profile.

The public comments, the classification of and response to those comments, and other data submitted in response to the **Federal Register** notice bear the docket control number ATSDR–86. This material is available for public inspection at the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays.

Availability

This notice announces the availability of nine final toxicological profiles for the Department of Defense. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone 1–800–553–6847. There is a charge for these profiles as determined by NTIS.

Toxicological profile	NTIS order No.	CAS No.
1. Di–N–OCTYLPHTHALATE	PB98–101033	000117–84–0
2. ETHYLENE GLYCOL/	PB98–101108	000107–21–1
PROPYLENE GLYCOL		000057–55–6
3. HEXACHLOROETHANE	PB98–101041	000067–72–1
4. HMX	PB98–101058	002691–41–0
5. HYDRAULIC FLUIDS	PB98–101066	VARIOUS
6. HYDRAZINES	PB98–101025	000302–01–2
1,1-DIMETHYLHYDRAZINE		000057–14–7
1,2-DIMETHYLHYDRAZINE		000540–73–8
DIMETHYLHYDRAZINE		030260–66–3
7. MINERAL-BASED CRANKCASE OIL	PB98–101066	008002–05–9
8. TITANIUM TETRACHLORIDE	PB98–101074	007550–45–0
9. WHITE PHOSPHORUS	PB98–101082	007723–14–0

Dated: December 17, 1997.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–33508 Filed 12–23–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee (NVAC), Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and Subcommittee on Vaccine Safety: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

Name: National Vaccine Advisory Committee (NVAC).

Times and Dates: 9 a.m.–2 p.m., January 12, 1998. 8:30 a.m.–1:15 p.m., January 13, 1998.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 and 8:30 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Purpose: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters To Be Discussed: Agenda items will include updates on the National Vaccine Program Office (NVPO) activities; the National Vaccine Plan and NVAC's role in defining priorities for action; unmet needs funding—past, present and future; adult immunization: report of the workgroup; use of non-traditional sites for adult immunization; influenza: a growing need for pandemic preparedness; and a discussion on vaccines for international travel.

In addition, there will be updates on welfare reform and effects on immunization; moving towards a Department of Health and Human Services' vaccine safety action plan; work group on philosophical exemptions—final report; the presidential initiative on immunization registries; global use of critically needed vaccines—strategies to consider. There will be reports from the Subcommittee on Immunization Coverage, Subcommittee on Future Vaccines, and Subcommittee on Vaccine Safety.

Name: Subcommittee on Immunization Coverage.

Time and Date: 2 p.m.–5 p.m., January 12, 1998.

Place: Hubert H. Humphrey Building, Room 423A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will identify and propose solutions that provide a multifaceted and holistic approach to reducing barriers that result in low immunization coverage for children.

Matters To Be Discussed: This subcommittee will hold a discussion on the review of recommendations from the document, ''Strategies to Sustain Immunization Coverage,'' and the finalization of those recommendations.

Name: Subcommittee on Future Vaccines.

Time and Date: 2 p.m.–5 p.m., January 12, 1998.

Place: Hubert H. Humphrey Building, Room 405A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: The Subcommittee on Future Vaccines will develop policy options and guide national activities which will lead to accelerated development, licensure, and best use of new vaccines in the simplest possible immunization schedules.

Matters To Be Discussed: This subcommittee will hold discussions regarding the continued evaluation of methods to remove barriers to development, licensure and use of safe and effective new vaccines; combination vaccines, strategic options; and defining future vaccines policy issues for travelers' vaccines.

Name: Subcommittee on Vaccine Safety.

Time and Date: 2 p.m.–5 p.m., January 12, 1998.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will review issues relevant to vaccine safety and adverse reactions to vaccines.

Matters To Be Discussed: This subcommittee will hold discussions regarding its goals; a report from the Task Force on Safer Childhood Vaccines; a project report on benefit-risk communication curriculum development; and agenda items for the next meeting.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Felecia D. Pearson, Committee Management Specialist, NVPO, CDC, 1600 Clifton Road, NE, M/S D50, Atlanta, Georgia 30333, telephone 404/639–4450.

Dated: December 19, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–33666 Filed 12–23–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0148]

International Conference on Harmonisation; Guidance on Impurities: Residual Solvents

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a guidance entitled ''Q3C Impurities:

Residual Solvents.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance recommends acceptable amounts of residual solvents in pharmaceuticals for the safety of the patient, and recommends the use of less toxic solvents in the manufacture of drug substances and dosage forms.

DATES: Effective December 24, 1997. Submit written comments at any time.

ADDRESSES: Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: John J. Gibbs, Center for Drug Evaluation and Research (HFD–820), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6430.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research (CDER) and Biologics Evaluation and Research (CBER), FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In the **Federal Register** of May 2, 1997 (62 FR 24302), FDA published a draft tripartite guideline entitled ''Impurities: Residual Solvents'' (Q3C). The notice gave interested persons an opportunity to submit comments by June 16, 1997.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies on July 17, 1997.

In accordance with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997), this document has been designated a guidance, rather than a guideline.

Residual solvents in pharmaceuticals are organic volatile chemicals that are used or produced in the synthesis of drug substances or excipients, or in the preparation of drug products. They are not completely removed by practical manufacturing techniques. The guidance recommends acceptable amounts of residual solvents in pharmaceuticals for the safety of the patient. The guidance recommends the use of less toxic solvents and describes levels considered to be toxicologically acceptable for some residual solvents. The guidance applies to residual solvents in drug substances, excipients, and drug products, and to all dosage forms and routes of administration. The guidance does not apply to potential new drug substances, excipients, or drug products used during the clinical research stages of development, nor does it apply to existing marketed drug products.

This guidance represents the agency's current thinking on acceptable amounts of residual solvents in pharmaceuticals. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed, and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet (http://www.fda.gov/cder/guidance.htm).

The text of the guidance follows:

Q3C Impurities: Residual Solvents [1]

1. Introduction

The objective of this guidance is to recommend acceptable amounts for residual solvents in pharmaceuticals for the safety of the patient. The guidance recommends use of less toxic solvents and describes levels considered to be toxicologically acceptable for some residual solvents.

Residual solvents in pharmaceuticals are defined here as organic volatile chemicals that are used or produced in the manufacture of drug substances or excipients, or in the preparation of drug products. The solvents are not completely removed by practical manufacturing techniques. Appropriate selection of the solvent for the synthesis of drug substance may enhance the yield, or determine characteristics such as crystal form, purity, and solubility. Therefore, the solvent may sometimes be a critical parameter in the synthetic process. This guidance does not address solvents deliberately used as excipients nor does it address solvates. However, the content of solvents in such products should be evaluated and justified.

Since there is no therapeutic benefit from residual solvents, all residual solvents should be removed to the extent possible to meet product specifications, good manufacturing practices, or other quality-based requirements. Drug products should contain

[1] This guidance represents the agency's current thinking on acceptable amounts of residual solvents in pharmaceuticals. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

no higher levels of residual solvents than can be supported by safety data. Some solvents that are known to cause unacceptable toxicities (Class 1, Table 1) should be avoided in the production of drug substances, excipients, or drug products unless their use can be strongly justified in a risk-benefit assessment. Some solvents associated with less severe toxicity (Class 2, Table 2) should be limited in order to protect patients from potential adverse effects. Ideally, less toxic solvents (Class 3, Table 3) should be used where practical. The complete list of solvents included in this guidance is given in Appendix 1.

The lists are not exhaustive and other solvents can be used and later added to the lists. Recommended limits of Class 1 and 2 solvents or classification of solvents may change as new safety data becomes available. Supporting safety data in a marketing application for a new drug product containing a new solvent may be based on concepts in this guidance or the concept of qualification of impurities as expressed in the guidance for drug substance (Q3A, Impurities in New Drug Substances) or drug product (Q3B, Impurities in New Drug Products), or all three guidances.

2. Scope of the Guidance

Residual solvents in drug substances, excipients, and drug products are within the scope of this guidance. Therefore, testing should be performed for residual solvents when production or purification processes are known to result in the presence of such solvents. It is only considered necessary to test for solvents that are used or produced in the manufacture or purification of drug substances, excipients, or drug products. Although manufacturers may choose to test the drug product, a cumulative method may be used to calculate the residual solvent levels in the drug product from the levels in the ingredients used to produce the drug product. If the calculation results in a level equal to or below that recommended in this guidance, no testing of the drug product for residual solvents need be considered. If, however, the calculated level is above the recommended level, the drug product should be tested to ascertain whether the formulation process has reduced the relevant solvent level to within the acceptable amount. Drug product should also be tested if a solvent is used during its manufacture.

This guidance does not apply to potential new drug substances, excipients, or drug products used during the clinical research stages of development, nor does it apply to existing marketed drug products.

The guidance applies to all dosage forms and routes of administration. Higher levels of residual solvents may be acceptable in certain cases such as short-term (30 days or less) or topical application. Justification for these levels should be made on a case-by-case basis.

See Appendix 2 of this document for additional background information related to residual solvents.

3. General Principles

3.1 Classification of Residual Solvents by Risk Assessment

The term ''tolerable daily intake'' (TDI) is used by the International Program on Chemical Safety (IPCS) to describe exposure limits of toxic chemicals and the term ''acceptable daily intake'' (ADI) is used by the World Health Organization (WHO) and other national and international health authorities and institutes. The new term ''permitted daily exposure'' (PDE) is defined in the present guidance as a pharmaceutically acceptable intake of residual solvents to avoid confusion of differing values for ADI's of the same substance.

Residual solvents assessed in this guidance are listed in Appendix 1 by common names and structures. They were evaluated for their possible risk to human health and placed into one of three classes as follows:

Class 1 solvents: Solvents to be avoided—

Known human carcinogens, strongly suspected human carcinogens, and environmental hazards.

Class 2 solvents: Solvents to be limited—

Nongenotoxic animal carcinogens or possible causative agents of other irreversible toxicity such as neurotoxicity or teratogenicity.

Solvents suspected of other significant but reversible toxicities.

Class 3 solvents: Solvents with low toxic potential—

Solvents with low toxic potential to man; no health-based exposure limit is needed. Class 3 solvents have PDE's of 50 milligrams (mg) or more per day.

3.2 Methods for Establishing Exposure Limits

The method used to establish permitted daily exposures for residual solvents is presented in Appendix 3. Summaries of the toxicity data that were used to establish limits are published in *Pharmeuropa*, Vol. 9, No. 1, Supplement, April 1997.

3.3 Options for Describing Limits of Class 2 Solvents

Two options are available when setting limits for Class 2 solvents.

Option 1: The concentration limits in parts per million (ppm) stated in Table 2 can be used. They were calculated using equation (1) below by assuming a product mass of 10 grams (g) administered daily.

$$\text{(1)} \quad \text{Concentration (ppm)} = \frac{1000 \times \text{PDE}}{\text{dose}}$$

Here, PDE is given in terms of mg/day and dose is given in g/day.

These limits are considered acceptable for all substances, excipients, or products. Therefore, this option may be applied if the daily dose is not known or fixed. If all excipients and drug substances in a formulation meet the limits given in Option 1, then these components may be used in any proportion. No further calculation is necessary provided the daily dose does not exceed 10 g. Products that are administered in doses greater than 10 g per day should be considered under Option 2.

Option 2: It is not considered necessary for each component of the drug product to comply with the limits given in Option 1. The PDE in terms of mg/day as stated in Table 2 can be used with the known maximum daily dose and equation (1), as shown in Option 1 in the previous paragraph, to determine the concentration of residual solvent allowed in drug product. Such limits are considered acceptable provided that it has been demonstrated that the residual solvent has been reduced to the practical minimum. The limits should be realistic in relation to analytical precision, manufacturing capability, and reasonable variation in the manufacturing process and the limits should reflect contemporary manufacturing standards.

Option 2 may be applied by adding the amounts of a residual solvent present in each of the components of the drug product. The sum of the amounts of solvent per day should be less than that given by the PDE.

Consider an example of the use of Option 1 and Option 2 applied to acetonitrile in a drug product. The permitted daily exposure to acetonitrile is 4.1 mg per day; thus, the Option 1 limit is 410 ppm. The maximum administered daily mass of a drug product is 5.0 g, and the drug product contains two excipients. The composition of the drug product and the calculated maximum content of residual acetonitrile are given in the following table.

Component	Amount in formulation	Acetonitrile content	Daily exposure
Drug substance	0.3 g	800 ppm	0.24 mg
Excipient 1	0.9 g	400 ppm	0.36 mg
Excipient 2	3.8 g	800 ppm	3.04 mg
Drug product	5.0 g	728 ppm	3.64 mg

Excipient 1 meets the Option 1 limit, but the drug substance, excipient 2, and drug product do not meet the Option 1 limit. Nevertheless, the product meets the Option 2 limit of 4.1 mg per day and thus conforms to the recommendations in this guidance.

Consider another example using acetonitrile as residual solvent. The maximum administered daily mass of a drug product is 5.0 g, and the drug product contains two excipients. The composition of the drug product and the calculated maximum content of residual acetonitrile are given in the following table.

Component	Amount in formulation	Acetonitrile content	Daily exposure
Drug substance	0.3 g	800 ppm	0.24 mg
Excipient 1	0.9 g	2,000 ppm	1.80 mg
Excipient 2	3.8 g	800 ppm	3.04 mg
Drug product	5.0 g	1,016 ppm	5.08 mg

In this example, the product meets neither the Option 1 nor the Option 2 limit according to this summation. The manufacturer could test the drug product to determine if the formulation process reduced the level of acetonitrile. If the level of acetonitrile was not reduced during formulation to the allowed limit, then the manufacturer of the drug product should take other steps to reduce the amount of acetonitrile in the drug product. If all of these steps fail to reduce the level of residual solvent, in exceptional cases the manufacturer could provide a summary of efforts made to reduce the solvent level to meet the guidance value, and provide a risk-benefit analysis to support allowing the product to be utilized with residual solvent at a higher level.

3.4 Analytical Procedures

Residual solvents are typically determined using chromatographic techniques such as gas chromatography. Any harmonized procedures for determining levels of residual solvents as described in the pharmacopoeias should be used, if feasible. Otherwise, manufacturers would be free to select the most appropriate validated analytical procedure for a particular application. If only Class 3 solvents are present, a nonspecific method such as loss on drying may be used.

Validation of methods for residual solvents should conform to ICH guidances ''Q2A Text on Validation of Analytical Procedures'' and ''Q2B Validation of Analytical Procedures: Methodology.''

3.5 Reporting Levels of Residual Solvents

Manufacturers of pharmaceutical products need certain information about the content of residual solvents in excipients or drug substances in order to meet the criteria of this guidance. The following statements are given as acceptable examples of the information that could be provided from a supplier of excipients or drug substances to a pharmaceutical manufacturer. The supplier might choose one of the following as appropriate:

- Only Class 3 solvents are likely to be present. Loss on drying is less than 0.5 percent.
- Only Class 2 solvents X, Y, * * * are likely to be present. All are below the Option 1 limit. (Here the supplier would name the Class 2 solvents represented by X, Y, * * * .)
- Only Class 2 solvents X, Y, * * * and Class 3 solvents are likely to be present. Residual Class 2 solvents are below the Option 1 limit and residual Class 3 solvents are below 0.5 percent.

If Class 1 solvents are likely to be present, they should be identified and quantified.

''Likely to be present'' refers to the solvent used in the final manufacturing step and to solvents that are used in earlier manufacturing steps and not removed consistently by a validated process.

If solvents of Class 2 or Class 3 are present at greater than their Option 1 limits or 0.5 percent, respectively, they should be identified and quantified.

4. Limits of Residual Solvents

4.1 Solvents to Be Avoided

Solvents in Class 1 should not be employed in the manufacture of drug substances, excipients, and drug products because of their unacceptable toxicity or their deleterious environmental effect. However, if their use is unavoidable in order to produce a drug product with a significant therapeutic advance, then their levels should be restricted as shown in Table 1, unless otherwise justified. The solvent 1,1,1-Trichloroethane is included in Table 1 because it is an environmental hazard. The stated limit of 1,500 ppm is based on a review of the safety data.

TABLE 1.—CLASS 1 SOLVENTS IN PHARMACEUTICAL PRODUCTS (SOLVENTS THAT SHOULD BE AVOIDED)

Solvent	Concentration limit (ppm)	Concern
Benzene	2	Carcinogen
Carbon tetrachloride	4	Toxic and environmental hazard
1,2-Dichloroethane	5	Toxic
1,1-Dichloroethene	8	Toxic
1,1,1-Trichloroethane	1,500	Environmental hazard

4.2 Solvents to Be Limited

Solvents in Table 2 should be limited in pharmaceutical products because of their inherent toxicity. PDE's are given to the nearest 0.1 mg/day, and concentrations are given to the nearest 10 ppm. The stated values do not reflect the necessary analytical precision of determination. Precision should be determined as part of the validation of the method.

TABLE 2.—CLASS 2 SOLVENTS IN PHARMACEUTICAL PRODUCTS

Solvent	PDE (mg/day)	Concentration limit (ppm)
Acetonitrile	4.1	410
Chlorobenzene	3.6	360
Chloroform	0.6	60
Cyclohexane	38.8	3,880
1,2-Dichloroethene	18.7	1,870

TABLE 2.—CLASS 2 SOLVENTS IN PHARMACEUTICAL PRODUCTS—Continued

Solvent	PDE (mg/day)	Concentration limit (ppm)
Dichloromethane	6.0	600
1,2-Dimethoxyethane	1.0	100
N,N-Dimethylacetamide	10.9	1,090
N,N-Dimethylformamide	8.8	880
1,4-Dioxane	3.8	380
2-Ethoxyethanol	1.6	160
Ethyleneglycol	6.2	620
Formamide	2.2	220
Hexane	2.9	290
Methanol	30.0	3,000
2-Methoxyethanol	0.5	50
Methylbutyl ketone	0.5	50
Methylcyclohexane	11.8	1,180
N-Methylpyrrolidone	48.4	4,840
Nitromethane	0.5	50
Pyridine	2.0	200
Sulfolane	1.6	160
Tetralin	1.0	100
Toluene	8.9	890
1,1,2-Trichloroethene	0.8	80
Xylene[1]	21.7	2,170

[1] Usually 60% m-xylene, 14% p-xylene, 9% o-xylene with 17% ethyl benzene.

4.3 Solvents with Low Toxic Potential

Solvents in Class 3 (shown in Table 3) may be regarded as less toxic and of lower risk to human health. Class 3 includes no solvent known as a human health hazard at levels normally accepted in pharmaceuticals. However, there are no long-term toxicity or carcinogenicity studies for many of the solvents in Class 3. Available data indicate that they are less toxic in acute or short-term studies and negative in genotoxicity studies. It is considered that amounts of these residual solvents of 50 mg per day or less (corresponding to 5,000 ppm or 0.5 percent under Option 1) would be acceptable without justification. Higher amounts may also be acceptable provided they are realistic in relation to manufacturing capability and good manufacturing practice (GMP).

TABLE 3.—CLASS 3 SOLVENTS WHICH SHOULD BE LIMITED BY GMP OR OTHER QUALITY-BASED REQUIREMENTS

Acetic acid	Heptane
Acetone	Isobutyl acetate
Anisole	Isopropyl acetate
1-Butanol	Methyl acetate
2-Butanol	3-Methyl-1-butanol
Butyl acetate	Methylethyl ketone
tert-Butylmethyl ether	Methylisobutyl ketone
Cumene	2-Methyl–1-propanol
Dimethyl sulfoxide	Pentane
Ethanol	1-Pentanol
Ethyl acetate	1-Propanol
Ethyl ether	2-Propanol
Ethyl formate	Propyl acetate
Formic acid	Tetrahydrofuran

4.4 Solvents for Which No Adequate Toxicological Data Were Found

The following solvents (Table 4) may also be of interest to manufacturers of excipients, drug substances, or drug products. However, no adequate toxicological data on which to base a PDE were found. Manufacturers should supply justification for residual levels of these solvents in pharmaceutical products.

TABLE 4.—SOLVENTS FOR WHICH NO ADEQUATE TOXICOLOGICAL DATA WERE FOUND

1,1-Diethoxypropane	Methylisopropyl ketone
1,1-Dimethoxymethane	Methyltetrahydrofuran
2,2-Dimethoxypropane	Petroleum ether
Isooctane	Trichloroacetic acid
Isopropyl ether	Trifluoroacetic acid

Glossary

Genotoxic carcinogens: Carcinogens that produce cancer by affecting genes or chromosomes.

LOEL: Abbreviation for lowest-observed effect level.

Lowest-observed effect level: The lowest dose of substance in a study or group of studies that produces biologically significant increases in frequency or severity of any effects in the exposed humans or animals.

Modifying factor: A factor determined by professional judgment of a toxicologist and applied to bioassay data to relate that data safely to humans.

Neurotoxicity: The ability of a substance to cause adverse effects on the nervous system.

NOEL: Abbreviation for no-observed-effect level.

No-observed-effect level: The highest dose of substance at which there are no biologically significant increases in frequency or severity of any effects in the exposed humans or animals.

PDE: Abbreviation for permitted daily exposure.

Permitted daily exposure: The maximum acceptable intake per day of residual solvent in pharmaceutical products.

Reversible toxicity: The occurrence of harmful effects that are caused by a substance and which disappear after exposure to the substance ends.

Strongly suspected human carcinogen: A substance for which there is no epidemiological evidence of carcinogenesis but there are positive genotoxicity data and clear evidence of carcinogenesis in rodents.

Teratogenicity: The occurrence of structural malformations in a developing fetus when a substance is administered during pregnancy.

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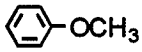
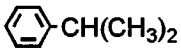
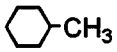
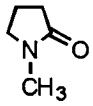
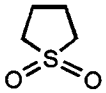
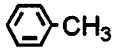
Appendix 1. List of Solvents Included in the Guidance

Solvent	Other Names	Structure	Class
Acetic acid	Ethanoic acid	CH_3COOH	Class 3
Acetone	2-Propanone Propan-2-one	CH_3COCH_3	Class 3
Acetonitrile		CH_3CN	Class 2
Anisole	Methoxybenzene		Class 3
Benzene	Benzol		Class 1
1-Butanol	n-Butyl alcohol Butan-1-ol	$CH_3(CH_2)_3OH$	Class 3
2-Butanol	sec-Butyl alcohol Butan-2-ol	$CH_3CH_2CH(OH)CH_3$	Class 3
Butyl acetate	Acetic acid butyl ester	$CH_3COO(CH_2)_3CH_3$	Class 3
tert-Butylmethyl ether	2-Methoxy-2-methyl-propane	$(CH_3)_3COCH_3$	Class 3
Carbon tetrachloride	Tetrachloromethane	CCl_4	Class 1
Chlorobenzene			Class 2
Chloroform	Trichloromethane	$CHCl_3$	Class 2
Cumene	Isopropylbenzene (1-Methyl)ethylbenzene		Class 3
Cyclohexane	Hexamethylene		Class 2
1,2-Dichloroethane	sym-Dichloroethane Ethylene dichloride Ethylene chloride	CH_2ClCH_2Cl	Class 1

1,1-Dichloroethene	1,1-Dichloroethylene Vinylidene chloride	$H_2C{=}CCl_2$	Class 1
1,2-Dichloroethene	1,2-Dichloroethylene Acetylene dichloride	$ClHC{=}CHCl$	Class 2
Dichloromethane	Methylene chloride	CH_2Cl_2	Class 2
1,2-Dimethoxyethane	Ethyleneglycol dimethyl ether Monoglyme Dimethyl Cellosolve	$H_3COCH_2CH_2OCH_3$	Class 2
N,N-Dimethylacetamide	DMA	$CH_3CON(CH_3)_2$	Class 2
N,N-Dimethylformamide	DMF	$HCON(CH_3)_2$	Class 2
Dimethyl sulfoxide	Methylsulfinylmethane Methyl sulfoxide DMSO	$(CH_3)_2SO$	Class 3
1,4-Dioxane	p-Dioxane [1,4]Dioxane		Class 2
Ethanol	Ethyl alcohol	CH_3CH_2OH	Class 3
2-Ethoxyethanol	Cellosolve	$CH_3CH_2OCH_2CH_2OH$	Class 2
Ethyl acetate	Acetic acid ethyl ester	$CH_3COOCH_2CH_3$	Class 3
Ethyleneglycol	1,2-Dihydroxyethane 1,2-Ethanediol	$HOCH_2CH_2OH$	Class 2
Ethyl ether	Diethyl ether Ethoxyethane 1,1'-Oxybisethane	$CH_3CH_2OCH_2CH_3$	Class 3
Ethyl formate	Formic acid ethyl ester	$HCOOCH_2CH_3$	Class 3
Formamide	Methanamide	$HCONH_2$	Class 2
Formic acid		$HCOOH$	Class 3

Heptane	n-Heptane	$CH_3(CH_2)_5CH_3$	Class 3
Hexane	n-Hexane	$CH_3(CH_2)_4CH_3$	Class 2
Isobutyl acetate	Acetic acid isobutyl ester	$CH_3COOCH_2CH(CH_3)_2$	Class 3
Isopropyl acetate	Acetic acid isopropyl ester	$CH_3COOCH(CH_3)_2$	Class 3
Methanol	Methyl alcohol	CH_3OH	Class 2
2-Methoxyethanol	Methyl Cellosolve	$CH_3OCH_2CH_2OH$	Class 2
Methyl acetate	Acetic acid methyl ester	CH_3COOCH_3	Class 3
3-Methyl-1-butanol	Isoamyl alcohol Isopentyl alcohol 3-Methylbutan-1-ol	$(CH_3)_2CHCH_2CH_2OH$	Class 3
Methylbutyl ketone	2-Hexanone Hexan-2-one	$CH_3(CH_2)_3COCH_3$	Class 2
Methylcyclohexane	Cyclohexylmethane		Class 2
Methylethyl ketone	2-Butanone MEK Butan-2-one	$CH_3CH_2COCH_3$	Class 3
Methylisobutyl ketone	4-Methylpentan-2-one 4-Methyl-2-pentanone MIBK	$CH_3COCH_2CH(CH_3)_2$	Class 3
2-Methyl-1-propanol	Isobutyl alcohol 2-Methylpropan-1-ol	$(CH_3)_2CHCH_2OH$	Class 3
N-Methylpyrrolidone	1-Methylpyrrolidin-2-one 1-Methyl-2-pyrrolidinone		Class 2
Nitromethane		CH_3NO_2	Class 2
Pentane	n-Pentane	$CH_3(CH_2)_3CH_3$	Class 3

1-Pentanol	Amyl alcohol Pentan-1-ol Pentyl alcohol	$CH_3(CH_2)_3CH_2OH$	Class 3
1-Propanol	Propan-1-ol Propyl alcohol	$CH_3CH_2CH_2OH$	Class 3
2-Propanol	Propan-2-ol Isopropyl alcohol	$(CH_3)_2CHOH$	Class 3
Propyl acetate	Acetic acid propyl ester	$CH_3COOCH_2CH_2CH_3$	Class 3
Pyridine			Class 2
Sulfolane	Tetrahydrothiophene 1,1-dioxide		Class 2
Tetrahydrofuran	Tetramethylene oxide Oxacyclopentane		Class 3
Tetralin	1,2,3,4-Tetrahydro-naphthalene		Class 2
Toluene	Methylbenzene		Class 2
1,1,1-Trichloroethane	Methylchloroform	CH_3CCl_3	Class 1
1,1,2-Trichloroethene	Trichloroethene	$HClC{=}CCl_2$	Class 2
Xylene[1]	Dimethybenzene Xylol		Class 2

[1]Usually 60% m-xylene, 14% p-xylene, 9% o-xylene with 17% ethyl benzene.

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Appendix 2. Additional Background

A2.1 Environmental Regulation of Organic Volatile Solvents

Several of the residual solvents frequently used in the production of pharmaceuticals are listed as toxic chemicals in Environmental Health Criteria (EHC) monographs and the Integrated Risk Information System (IRIS). The objectives of such groups as the IPCS, the U.S. Environmental Protection Agency (EPA), and FDA include the determination of acceptable exposure levels. The goal is protection of human health and maintenance of environmental integrity against the possible deleterious effects of chemicals resulting from long-term environmental exposure. The methods involved in the estimation of maximum safe exposure limits are usually based on long-term studies. When long-term study data are unavailable, shorter term study data can be used with modification of the approach such as use of larger safety factors. The approach described therein relates primarily to long-term or *lifetime exposure of the general population* in the ambient environment, i.e., ambient air, food, drinking water, and other media.

A2.2 Residual Solvents in Pharmaceuticals

Exposure limits in this guidance are established by referring to methodologies and toxicity data described in EHC and IRIS monographs. However, some specific assumptions about residual solvents to be used in the synthesis and formulation of pharmaceutical products should be taken into account in establishing exposure limits. They are as follows:

(1) Patients (not the general population) use pharmaceuticals to treat their diseases or for prophylaxis to prevent infection or disease.

(2) The assumption of lifetime patient exposure is not necessary for most pharmaceutical products but may be appropriate as a working hypothesis to reduce risk to human health.

(3) Residual solvents are unavoidable components in pharmaceutical production and will often be a part of drug products.

(4) Residual solvents should not exceed recommended levels except in exceptional circumstances.

(5) Data from toxicological studies that are used to determine acceptable levels for residual solvents should have been generated using appropriate protocols such as those described, for example, by the Organization for Cooperation and Development, EPA, and the FDA Red Book.

Appendix 3. Methods for Establishing Exposure Limits

The Gaylor-Kodell method of risk assessment (Gaylor, D. W., and R. L. Kodell, ''Linear Interpolation Algorithm for Low Dose Assessment of Toxic Substance,'' *Journal of Environmental Pathology and Toxicology*, 4:305, 1980) is appropriate for Class 1 carcinogenic solvents. Only in cases where reliable carcinogenicity data are available should extrapolation by the use of mathematical models be applied to setting exposure limits. Exposure limits for Class 1 solvents could be determined with the use of a large safety factor (i.e., 10,000 to 100,000) with respect to the NOEL. Detection and quantitation of these solvents should be by state-of-the-art analytical techniques.

Acceptable exposure levels in this guidance for Class 2 solvents were established by calculation of PDE values according to the procedures for setting exposure limits in pharmaceuticals (*Pharmacopeial Forum*, Nov-Dec 1989), and the method adopted by IPCS for Assessing Human Health Risk of Chemicals (EHC 170, WHO, 1994). These methods are similar to those used by the U.S. EPA (IRIS) and the U.S. FDA (Red Book) and others. The method is outlined here to give a better understanding of the origin of the PDE values. It is not necessary to perform these calculations in order to use the PDE values tabulated in Section 4 of this document.

PDE is derived from the NOEL or the LOEL in the most relevant animal study as follows:

$$\mathrm{PDE} = \frac{\mathrm{NOEL} \times \mathrm{Weight\ Adjustment}}{\mathrm{F1} \times \mathrm{F2} \times \mathrm{F3} \times \mathrm{F4} \times \mathrm{F5}} \quad (1)$$

The PDE is derived preferably from a NOEL. If no NOEL is obtained, the LOEL may be used. Modifying factors proposed here, for relating the data to humans, are the same kind of ''uncertainty factors'' used in EHC (EHC 170, WHO, Geneva, 1994), and ''modifying factors'' or ''safety factors'' in *Pharmacopeial Forum*. The assumption of 100 percent systemic exposure is used in all calculations regardless of route of administration.

The modifying factors are as follows:

F1 = A factor to account for extrapolation between species.

F1 = 5 for extrapolation from rats to humans.

F1 = 12 for extrapolation from mice to humans.

F1 = 2 for extrapolation from dogs to humans.

F1 = 2.5 for extrapolation from rabbits to humans.

F1 = 3 for extrapolation from monkeys to humans.

F1 = 10 for extrapolation from other animals to humans.

F1 takes into account the comparative surface area:body weight ratios for the species concerned and for man. Surface area (S) is calculated as:

$$S = kM^{0.67} \quad (2)$$

in which M = body mass, and the constant k has been taken to be 10. The body weights used in the equation are those shown below in Table A3.1.

F2 = A factor of 10 to account for variability between individuals.

A factor of 10 is generally given for all organic solvents, and 10 is used consistently in this guidance.

F3 = A variable factor to account for toxicity studies of short-term exposure.

F3 = 1 for studies that last at least one half-lifetime (1 year for rodents or rabbits; 7 years for cats, dogs and monkeys).

F3 = 1 for reproductive studies in which the whole period of organogenesis is covered.

F3 = 2 for a 6-month study in rodents, or a 3.5-year study in nonrodents.

F3 = 5 for a 3-month study in rodents, or a 2-year study in nonrodents.

F3 = 10 for studies of a shorter duration. In all cases, the higher factor has been used for study durations between the time points, e.g., a factor of 2 for a 9-month rodent study.

F4 = A factor that may be applied in cases of severe toxicity, e.g., nongenotoxic carcinogenicity, neurotoxicity or teratogenicity. In studies of reproductive toxicity, the following factors are used:

F4 = 1 for fetal toxicity associated with maternal toxicity.

F4 = 5 for fetal toxicity without maternal toxicity.

F4 = 5 for a teratogenic effect with maternal toxicity.

F4 = 10 for a teratogenic effect without maternal toxicity.

F5 = A variable factor that may be applied if the no effect level was not established.

When only an LOEL is available, a factor of up to 10 could be used depending on the severity of the toxicity.

The weight adjustment assumes an arbitrary adult human body weight for either sex of 50 kilograms (kg). This relatively low weight provides an additional safety factor against the standard weights of 60 kg or 70 kg that are often used in this type of calculation. It is recognized that some adult patients weigh less than 50 kg; these patients are considered to be accommodated by the built-in safety factors used to determine a PDE. If the solvent was present in a formulation specifically intended for pediatric use, an adjustment for a lower body weight would be appropriate.

As an example of the application of this equation, consider a toxicity study of acetonitrile in mice that is summarized in *Pharmeuropa*, Vol. 9, No. 1, Supplement, April 1997, page S24. The NOEL is calculated to be 50.7 mg kg^{-1} day^{-1}. The PDE for acetonitrile in this study is calculated as follows:

$$\mathrm{PDE} = \frac{50.7\ \mathrm{mg\ kg^{-1}\ day^{-1}} \times 50\ \mathrm{kg}}{12 \times 10 \times 5 \times 1 \times 1} = 4.22\ \mathrm{mg\ day^{-1}}$$

In this example,

F1 = 12 to account for the extrapolation from mice to humans.

F2 = 10 to account for differences between individual humans.

F3 = 5 because the duration of the study was only 13 weeks.

F4 = 1 because no severe toxicity was encountered.

F5 = 1 because the no effect level was determined.

TABLE A3.1—VALUES USED IN THE CALCULATIONS IN THIS DOCUMENT

Rat body weight	425 g	Mouse respiratory volume	43 liter (L)/day
Pregnant rat body weight	330 g	Rabbit respiratory volume	1,440 L/day
Mouse body weight	28 g	Guinea pig respiratory volume	430 L/day
Pregnant mouse body weight	30 g	Human respiratory volume	28,800 L/day
Guinea pig body weight	500 g	Dog respiratory volume	9,000 L/day
Rhesus monkey body weight	2.5 kg	Monkey respiratory volume	1,150 L/day
Rabbit body weight (pregnant or not)	4 kg	Mouse water consumption	5 milliliter (mL)/day
Beagle dog body weight	11.5 kg	Rat water consumption	30 mL/day
Rat respiratory volume	290 L/day	Rat food consumption	30 g/day

The equation for an ideal gas, PV = nRT, is used to convert concentrations of gases used in inhalation studies from units of ppm to units of mg/L or mg/cubic meter (m^3). Consider as an example the rat reproductive toxicity study by inhalation of carbon tetrachloride (molecular weight 153.84) summarized in *Pharmeuropa*, Vol. 9, No. 1, Supplement, April 1997, page S9.

$$\frac{n}{V} = \frac{P}{RT} = \frac{300 \times 10^{-6}\ \text{atm} \times 153840\ \text{mg mol}^{-1}}{0.082\ \text{L atm K}^{-1}\ \text{mol}^{-1} \times 298\ \text{K}} = \frac{46.15\ \text{mg}}{24.45\ \text{L}} = 1.89\ \text{mg/L}$$

The relationship 1000 L = 1 m^3 is used to convert to mg/m^3.

Dated: December 16, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33639 Filed 12–23–97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Form #HCFA–R–224]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHSS), has submitted to the Office of Management and Budget (OMB) the following request for Emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. The Agency cannot reasonably comply with the normal clearance procedures because of a statutory deadline imposed by section 1853(a)(3) of the Balanced Budget Act of 1997. Without this information, HCFA would not be able to properly implement the requirements set forth in the statute.

HCFA is requesting OMB review and approval of this collection by 12/31/97, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below, by 12/29/97.

During this 180-day period HCFA will pursue OMB clearance of this collection as stipulated by 5 CFR 1320.5.

Type of Information Collection Request: New collection;

Title of Information Collection: Collection of Managed Care Data Using the Uniform Institutional Providers Form (HCFA–1450/UB–92) and Supporting Statute Section 1853(a)(3) of the Balanced budget Act of 1997;

Form No.: HCFA–R–224;

Use: Section 1853(a)(3) of the Balanced Budget Act (BBA) requires Medicare+Choice organizations, as well as eligible organizations with risk-sharing contracts under section 1876, to submit encounter data. Data regarding inpatient hospital services are required for periods beginning on or after July 1, 1997. These data may be collected starting January 1, 1998. Other data (as the Secretary deems necessary) may be required beginning July 1, 1998.

The BBA also requires the Secretary to implement a risk adjustment methodology that accounts for variation in per capita costs based on health status. This payment method must be implemented no later than January 1, 2000. The encounter data are necessary to implement a risk adjustment methodology.

Hospital data from the period, July 1, 1997—June 30, 1998, will serve as the basis for plan-level estimates of risk adjusted payments. These estimates will be provided to plans by March, 1999. Encounter data collected from subsequent time periods will serve as the basis for actual payments to plans for CY 2000 and beyond.

In implementing the requirements of the BBA, hospitals will submit data to the managed care plan for enrollees who have a hospital discharge using the HCFA–1450 (UB–92), Uniform Institutional Provider Claim Form. Encounter data for hospital discharges occurring on or after July 1, 1997 are required. While submission from the hospital to the plan is required, plans are provided with a start-up period during which time an alternate submission route is permitted.

The six month start up period, beginning January 1, 1998 will enable plans to accomplish the requirements of the BBA by the end of the start-up period, or June 30, 1998. Special procedures have been identified to ensure that hospital encounter data are submitted for discharges occurring on or after July 1, 1997 and before June 30, 1998. The special procedures for the start up period include the following:

1. In order to provide plans with an estimate of their Average Payment Rate (APR) by March, 1999, HCFA must receive data on hospital discharges that occurred on or after July 1, 1997 and before December 31, 1997, as well as encounter data on discharges that occur during the start up period, or January 1, 1998 through June 30, 1998. Currently, most plans do not have the capacity to submit data electronically to a fiscal intermediary (FI), and the FIs are not capable of receiving these data. Therefore, during this period only, unless an alternative approach is approved by HCFA, hospitals must submit completed UB–92s for the Plan's enrollees. These pseudo-claims must be submitted to the hospital's regular fiscal intermediary. This is a current requirement for hospitals, and they are expected to comply with this requirement throughout this period. Plans must provide hospitals with the Medicare identification number of all enrollees admitted who have Medicare coverage.

If hospitals are unable to submit these data on behalf of the plan during the start-up period, an alternate method of submitting the data may be developed by HCFA. If such a method is developed, it would require the plans to submit a subset of data elements that are found on the UB–92. Possible data elements include the following: Plan Contract Number; HIC (or Medicare Identification Number); enrollee's name; enrollee's state and county of residence; enrollee's birthdate and gender; Medicare Provider Number for the Hospital; claim from and thru date; admission date; and principal and secondary diagnoses codes. HCFA will specify the data elements, submission route, and format for these data.

2. During the start up period, the plan is expected to establish an electronic data linkage to a FI to be determined by HCFA. By June 30, 1998, the Plan is expected to have completed this linkage, including testing of the linkage, and to be capable of transmitting hospital encounter data to a FI. All data submitted after July 1, 1998 will be transmitted using this linkage. (See Attachment 1 for additional information on the transmission of data to HCFA.) Each plan and/or contract will use a single FI.

HCFA will establish a series of interim deadlines to ensure that plans are making sufficient progress toward accomplishing this linkage no later than June 30, 1998. HCFA will assist plans in initiating discussions with their FI.

After plans have established linkages to a FI, hospitals will submit HCFA–1450 (UB–92) forms to the managed care plan. The HCFA–1450 (UB92) form is identical to the one used by hospitals in billing for Medicare fee-for-service claims. After receiving the pseudo claim from the hospital, the plan attaches the plan identifier, which is the HCFA assigned managed care organization (MCO) Contract Number, and submits the pseudo-claim electronically to the fiscal intermediary (FI). The data processing flow by the FI is very similar to current claims processing for the fee-for-service system, except that no payment is authorized to the plan. Pseudo claims will flow though the FI to our Common Working File (CWF) and will be retained by HCFA;

Frequency: On occasion;

Affected Public: Business or other for-profit, not-for-profit institutions, and Federal government;

Number of Respondents: 6,700;

Total Annual Responses: 1.9 million;

Total Annual Hours: 32,833.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number(s) referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designee referenced below, by 12/29/97:

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: December 16, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–33556 Filed 12–23–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Announcement of Office of Management and Budget (OMB) Control Numbers for Agency Information Collections Approved Under the Paperwork Reduction Act of 1995

AGENCY: Health Care Financing Administration.

This notice announces and displays OMB control numbers for Health Care Financing Administration (HCFA) information collections that have been approved by OMB.

Under OMB's regulations implementing the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, each agency that proposes to collect information must submit its proposal for OMB review and approval in accordance with 5 C.F.R. Part 1320. Once OMB has approved an agency's proposed collection of information and issues a control number, the agency must display the control number.

OMB regulations provide for alternative methods of displaying OMB control numbers. In the case of collections of information published in regulations, display is to be ''provided in a manner that is reasonably calculated to inform the public.'' To meet this requirement an agency may display such information in the **Federal Register** by publishing such information in the preamble or the regulatory text, or in a technical amendment to the regulation, or in a separate notice announcing OMB approval of the collection of information.

To comply with this requirement HCFA has chosen to publish this notice announcing OMB approval of the collections of information published in regulations. As stated above, this notice announces and displays the assigned OMB control numbers for HCFA's information collections that have been approved by OMB.

42 CFR	OMB control Nos.
403.210	0938–0640

42 CFR	OMB control Nos.
405.262	0938–0267
405.374	0938–0270
405.427	0938–0155
405.711	0938–0045
405.807	0938–0033
405.821	0938–0034
405.1632	0938–0454
405.1701–.1726	0938–0273
405.2100–.2171	0938–0386
405.2110, 405.2112	0938–00657 & 0658
405.2133	0938–0046 & 0447 & 0448
405.2135–.2171	0938–0360
405.2401	0938–0685
406.13	0938–0080
406.15	0938–0501
406.28, 407.27	0938–0025
407.10, .11	0938–0245
407.18	0938–0679
407.40	0938–0035
408.6	0938–0041
409.40–.50, 410.36	0938–0357
410.1	0938–0679
410.38	0938–0534
410.40	0938–0042 & 0685
410.69	0938–0685
410.170	0938–0357
411.4–.15	0938–0357
411.15	0938–0224 & 0357
411.20–411.206	0938–0565
411.404, 411.406	0938–0465
411.408	0938–0566
412.20–.32	0938–0358
412.40–.62	0938–0359
412.44, 412.46	0938–0445
412.92	0938–0477
412.105	0938–0456
412.106	0938–0691
412.116	0938–0269
412.256	0938–0573
413.13	0938–0463
413.16	0938–0583
413.17, 413.20	0938–0202
413.20, 413.24	0938–0022 & 0037 & 0050 & 0102 & 0107 & 0301 & 0463 & 0511
413.56	0938–0463
413.64	0938–0269
413.157	0938–0463
413.170	0938–0296
414.40	0938–0008
414.330	0938–0372
414.451, 414.452, 414.456, 414.460	0938–0685
416.43	0938–0506
416.47	0938–0266 & 0506
417.1–.106	0938–0469
417.124	0938–0472
417.126	0938–0701
417.143, 417.408	0938–0470
417.436	0938–0610
417.470	0938–0701
417.479, 417.500	0938–0700
417.801	0938–0610
418.22, 418.24, 418.28, 418.30, 418.56, 418.58, 418.70, 418.74, 418.80, 418.83, 418.96, 418.100	0938–0302
420.200–.206	0938–0086
421.100	0938–0357
422.430	0938–0390
424.5	0938–0534
424.20	0938–0454
424.22	0938–0357 & 0589
424.32	0938–0008
424.57	0938–0685
424.73	0938–0685
424.123	0938–0484
424.124	0938–0042

42 CFR	OMB control Nos.
430.10–.20	0938–0193
430.12	0938–0610 & 0673
431.20	0938–0610
431.1–431.865	0938–0062
431.8	0938–0300
431.17	0938–0467
431.110	0938–0390
431.107	0938–0610
431.306	0938–0502
431.630	0938–0445
431.800	0938–0094
431.802–.822	0938–0246
431.814	0938–0146 & 0147
431.820	0938–0144
431.865	0938–0094 & 0246
431.940–431.965	0938–0467
433.68, 433.74	0938–0618
433.110–.131	0938–0487
433.110, 433.112–433.114, 433.116, 433.117, 433.119, 433.121, 433.122, 433.127, 433.130, 433.131	0938–0247
433.138	0938–0502
433.139	0938–0502
434.27	0938–0572
434.28	0938–0610
434.44, 434.67, 434.70	0938–0700
435.1–435.1011	0938–0062
435.217, 435.726, 435.735	0938–0449
435.940–.965	0938–0467
440.1–.270	0938–0062
440.10	0938–0449
440.30	0938–0685
441.250–.300	0938–0481
441.302	0938–0449
441.303	0938–0272
442.1–.119	0938–0062 & 0379
442.10–.119	0938–0355
442.30	0938–0678
447.31	0938–0287
447.53	0938–0429
447.253	0938–0523
447.255	0938–0193
447.272	0938–0618
447.280	0938–0624
447.299	0938–0618
455.100–.106	0938–0086
456.650–.657	0938–0061
456.654	0938–0445
456.700, 456.705, 456.709, 456.711, 456.712	0938–0659
466.71, 466.73, 466.74, 466.78, 466.80, 466.94	0938–0445
473.18, 473.34, 473.36, 473.42	0938–0443
476.104, 476.105, 476.116, 476.134	0938–0426
482.1–.66	0938–0380
482.2–.57	0938–0382
482.12, 482.22	0938–0328
482.27	0938–0328 & 0698
482.41	0938–0242
482.30, 482.41, 482.43, 482.53, 482.56, 482.57, 482.60–.62	0938–0328 & 0378
482.66	0938–0328 & 0624
483.10	0938–0610
483.70	0938–0242
483.400–.480	0938–0062 & 0678
483.440, 483.450, 483.460	0938–0366
483.470	0938–0242
484.1–.52	0938–0365
484.10	0938–0610
484.18	0938–0357
484.48	0938–0519
484.52	0938–0687
485.56, 485.58, 485.60, 485.64, 485.66	0938–0267
485.701–.729	0938–0273 & 0065
485.709, 485.711, 485.717, 485.719, 485.721, 485.723, 485.725, 485.727, 485.729	0938–0336
486.100–.110	0938–0338
486.150–.163	0938–0258 & 0071
486.155, 486.161, 486.163	0938–0336
486.301–.325	0938–0391, 0512 & 0688

42 CFR	OMB control Nos.
488.1–.28	0938–0355
488.4	0938–0690
488.18	0938–0667
488.26	0938–0379
488.60	0938–0360
489.20	0938–0667
489.21	0938–0357
489.24	0938–0667
489.27	0938–0692
489.40–.41	0938–0383
489.102	0938–0610
491.1–.11	0938–0074
491.2	0938–0685
491.9	0938–0334
493.1–.2001	0938–0151, 0170, 0544, 0581, 0612 & 0653
493.501, 493.506, 493.513, 493.515	0938–0686
493.1840	0938–0655
498.40–.95	0938–0486 & 0567
1003.100, 1003.101, 1003.103	0938–0700
1004.40, 1004.50, 1004.60, 1004.70	0938–0444

45 CFR	OMB control Nos.
146.111, .115, .117, .150, .152, .160, .180	0938–0702
148.120, .122, .124, .128	0938–0703

Dated: December 17, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group; Division of HCFA Enterprise Standards.

[FR Doc. 97–33555 Filed 12–23–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Criteria for Implementing Permissive Exclusion Authority Under Section 1128(b)(7) of the Social Security Act

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the non-binding guidelines, to be used by the OIG in assessing whether to impose a permissive exclusion in accordance with section 1128(b)(7) of the Social Security Act. These guidelines identify specific factors with regard to whether an individual's or entity's continued participation in the Medicare, Medicaid and other Federal health care programs will pose a risk to the programs or program beneficiaries, and explain how these factors would be used by the OIG to assess a permissive exclusion decision.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, Office of Counsel to the Inspector General (202) 619–0089.

SUPPLEMENTARY INFORMATION:

I. Background

Purpose and Rationale

Section 1128(b)(7) of the Social Security Act (the Act) authorizes the Secretary, and by delegation the Inspector General, to exclude a provider from Medicare, Medicaid and the other Federal health care programs for engaging in conduct described in sections 1128A and 1128B of the Act. These latter provisions establish administrative and criminal sanctions, respectively, against individuals and entities that (1) submit, or cause to be submitted, false or fraudulent claims to Medicare and the Federal and State health care programs; or (2) offer, pay, solicit or receive remuneration in return for the referral of business reimbursed by Medicare or Medicaid, a violation of the Medicare and Medicaid anti-kickback statute. Exclusions in accordance with section 1128(b)(7) of the Act, based on such conduct, are permissive in nature, that is, the Secretary has the discretion whether to exclude or not to exclude. Respondents in these administrative exclusion proceedings have the right to a hearing before a Department of Health and Human Services administrative law judge prior to the imposition of an exclusion.

On October 24, 1997, the OIG published a proposed policy statement in the **Federal Register** (62 FR 55410) in the form of non-binding guidelines to be used by the OIG in assessing whether to impose a permissive exclusion in accordance with section 1128(b)(7) of the Act. We indicated that these draft criteria were designed to allow for the more effective development of OIG investigations and investigative plans; establish an objective basis for the OIG's permissive exclusion decisions; evaluate a provider's trustworthiness to continue to conduct business with the Medicare, Medicaid and other Federal health care programs; and positively influence providers' future behavior through the development of corporate integrity programs and other conduct contemplated by the exclusion criteria.

The factors listed in these proposed guidelines were derived from two principal sources—the regulations governing exclusions under sections 1128(b)(7) and 1128A of the Act (42 CFR parts 1001 and 1003), and the decisions of the Departmental Appeals Board (DAB) in exclusion matters. The factors derived from DAB decisions reflected the analysis of the remedial purpose of program exclusion that is, to protect Federal health care programs by determining whether the respondent is sufficiently trustworthy to participate.

Structure of Permissive Exclusion Criteria

The proposed exclusion criteria were organized into four general categories of factors bearing on the trustworthiness of a provider that has allegedly engaged in health care fraud and abuse—

- The first category addressed the circumstances and seriousness of the

underlying misconduct. The factors to be considered are historical in nature and rely on past misconduct as an indicator of the defendant's propensity for future abuse of the programs.

- The second category considered the defendant's response to the allegations or determination of wrongdoing. These factors indicate whether the defendant is willing to affirmately modify his or her conduct, make injured parties whole, and otherwise acknowledge and remedy past wrongdoing.
- The third category identified various other factors relevant to assessing the likelihood of a future violation of the law. The implementation of an adequate corporate integrity program is a key consideration.
- The fourth category related to the defendant's financial ability to provide quality health care services.

Interested parties were invited to comment on these draft criteria and submit their written comments to the OIG for consideration. The OIG received two timely-filed public comments in accordance with that solicitation request. As a result of those comments, we are making two technical revisions to the final guidelines. The first change relates to section D and the defendant's financial ability to provide quality health care services. We are clarifying this section to indicate its application only to entities and not individual practitioners. Second, we are revising the language in paragraph 3 of section A to address the ''knowledge standard.'' Specifically, we are now indicating that a criterion would be whether there is evidence that the defendant knew, or should have known, that his or her conduct was prohibited.

We believe that the revised internal guidelines set forth below should now establish specific criteria on which the OIG may base its decision as to whether to seek the imposition of a permissive exclusion against a health care provider in accordance with section 1128(b)(7) of the Act. While these revised exclusion criteria will now serve as internal agency guidelines for the OIG, these criteria may be subject to further modification at any time. They are not intended to limit or bind the OIG's discretionary authority to exclude individuals or entities that pose a risk to Medicare, Medicaid and other Federal health care programs or program beneficiaries. These criteria do not create any rights or privileges in favor of any party. In addition, these criteria do not supplant to modify in any way the OIG regulations, codified at 42 CFR part 1001, governing program exclusions.

II. Criteria To Implement the OIG's Permissive Exclusion Authority Under Section 1128(b)(7)

The following criteria may be used to determine whether or not it is appropriate to impose a permissive exclusion in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a–7(b)(7)). These criteria are informal and non-binding, and may be used as a guide to assist the OIG in determining in which cases an exclusion should be imposed. The presence or absence of any or all of the factors that appear below does not constitute the sole grounds for determining whether exclusion is appropriate. There is a presumption that some period of exclusion should be imposed against an individual or entity that has defrauded Medicare or other Federal and State health care programs.

A. The Circumstances of the Misconduct and Seriousness of the Offense

1. Was a criminal sanction imposed? The amount of any criminal fine or penalty imposed, and the length of any period of incarceration that is ordered, is evidence of the seriousness of the statutory misconduct, and may have an impact on the exclusion determination.

2. Was there evidence of (i) physical or mental harm to patients or (ii) financial harm to the Medicare or any of the other Federal and State health care programs? If financial loss to the programs occurred, what was the extent of such loss? Exclusion may be appropriate not only in cases where actual harm is present, but potential harm as well.

3. Is the misconduct an isolated incident or a continuous pattern of wrongdoing over a significant period of time? Is there evidence that the defendant knew, or should have known, that his or her conduct was prohibited? Has the defendant had the same or previous problems with the OIG, the Health Care Financing Administration (HCFA), the carrier or intermediary, or the State? What was the nature of these problems?

4. Was the defendant's involvement in the misconduct active or passive? Was the defendant aware of the misconduct when it was occurring? Did the defendant play a role in the misconduct?

B. Defendant's Response to Allegations/ Determination of Unlawful Conduct

1. What was the defendant's response to any actual or potential legal violations or harm to the programs or their beneficiaries? Was the response appropriate and credible?

2. Did the defendant cooperate with investigators and prosecutors, and timely respond to lawful requests for documents and the provision of evidence regarding the involvement of other individuals in a particular scheme, thereby demonstrating trustworthiness?

3. Has the defendant made or agreed to make full restitution to the Federal and/or state health care programs, thereby demonstrating present responsibility and willingness to conform to applicable laws, regulations and program requirements?

4. Has the defendant paid or agreed to pay all criminal, civil, and administrative fines, penalties, and assessments resulting from the improper activity?

5. Has the defendant taken steps to undo the questionable conduct or mitigate the ill effects of the misconduct, e.g., appropriate disciplinary action against the individuals responsible for the activity that constitutes cause for exclusion, or other corrective action?

6. Has the defendant acknowledged its wrongdoing and changed its behavior, thereby demonstrating future trustworthiness?

C. Likelihood that Offense or Some Similar Abuse Will Occur Again

1. Was the misconduct the result of a unique circumstance not likely to recur? Is there minimal risk of repeat conduct?

2. Have prior and subsequent conduct been exemplary or improper?

3. What prior measures had been taken to ensure compliance with the law? Can the defendant demonstrate that it had an effective compliance plan in place when the activities that constitute cause for exclusion occurred?

A. Did the defendant make any efforts to contact the OIG, HCFA, or its contractors to determine whether its conduct complied with the law and applicable program requirements? Were any contacts documented?

B. Did the defendant bring the activity in question to the attention of the appropriate Government officials prior to any Government action, e.g., was there any voluntary disclosure regarding the alleged wrongful conduct?

C. Did the defendant have effective standards of conduct and internal control systems in place at the time of the wrongful activity, e.g., was there a corporate compliance program in place? If there was an existing corporate compliance plan:

(i) How long had the compliance plan been in effect?

(ii). What problems had been identified as a result of the compliance plan?

(iii). Were any overpayments or systemic changes made if problems were identified?

(iv) Were appropriate staff sufficiently trained in applicable policies and procedures pertaining to Medicare and other Federal and State health care programs?

(v) Was there a corporate compliance officer and an effective corporate compliance committee in place (if appropriate to the size of the company)?

(vi) Were regular audits undertaken at the time of the unlawful activity?

4. What measures have been taken, or will be taken, to ensure compliance with the law? Has the defendant agreed to implement adequate compliance measures, including institution of a corporate integrity plan?

D. Financial Responsibility

If the defendant is an entity and is permitted to continue program participation, is that defendant able to operate without a real threat of bankruptcy and without a real threat to its ability to provide quality health care items or services?

Dated: December 16, 1997.

June Gibbs Brown,

Inspector General.

[FR Doc. 97–33524 Filed 12–23–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health (NIH)

National Institute on Aging; Notice of Meeting of the National Advisory Council on Aging

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, Thursday, February 5, and Friday, February 6, 1998, to be held at the National Institutes of Health, Natcher Building, Conference Room F1 and 2, Bethesda, Maryland. This meeting will be open to the public on Thursday, February 5, from 1:00 to 4:30 p.m. for a status report by the Director, NIA, and the Behavioral and Social Research Program and Intramural Research Program Reviews.

The meeting will be open again on Friday, February 6, from 8:00 to 10:00 a.m. for a report on the Working Group on Program, a report on the Council Task Force on Minority Aging and Highlights of Recent Research Findings. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on Thursday, February 5, from 4:30 p.m. to recess for the review of the Intramural Research Program.

The meeting will also be closed on Friday, February 6, from 10:00 a.m. to adjournment for the discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as a patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Officer for the National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, Maryland 20892 (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. McCann at (301) 496–9322, in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: December 17, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33490 Filed 12–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

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 National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: Review of Conference Grants (R13s) and Conference Cooperative Agreements (U13s) Telephone Conference Call.

Date: January 9, 1998.

Time: 2:30 p.m.

Place: National Institute of Environmental Health Sciences, North Campus, Building 4401, Room 3446, Research Triangle Park, NC 27709.

Contact Person: Dr. Carol Shreffler, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1445.

Purpose/Agenda: To review and evaluate grant applications.

This 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. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: December 17, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33491 Filed 12–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Allergy, Immunology, and Transportation Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee on February 10–12, 1998, at the Belmont Manor House and Conference Center, 6555 Belmont Woods Road, Elkridge, Maryland.

The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on February 10 to discuss administrative details relating to committee business and program review, and for a report from the Acting Director, Division of Extramural Activities, which will include a discussion of budgetary matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:30 a.m. on February 10 until

adjournment on February 12. These applications, 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 proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C2, National Institute of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Kevin M. Callahan, Scientific Review Administrator, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Solar Building, Room 4C20, Bethesda, Maryland 20892, telephone 301–496–8424, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research, National Institutes of Health)

Dated: December 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33494 Filed 12–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on February 2–3, 1998. Meetings of the Council, NAAIDC Allergy and Immunology Subcommittee, NAAIDC Microbiology and Infectious Diseases Subcommittee and the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee will be held at the National Institutes of Health, Bethesda, Maryland.

The meeting of the full Council will be open to the public on February 2 in Building 31C, Conference Room 6, from 1 p.m. to approximately 3:30 p.m. for general discussion and program presentations.

On February 3 the meetings of the NAAIDC Allergy and Immunology Subcommittee, NAAIDC Microbiology and Infectious Diseases Subcommittee will be open to the public from 8:30 a.m. until adjournment. The subcommittees will meet in Building 31C, conference rooms 8 and 6 respectively.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately four hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 8:30 a.m. until approximately 1 p.m. on February 2, in conference rooms 7, 8 and 6 respectively. The meeting of the full Council will be closed from 3:30 p.m. until recess on February 2 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Lawrence Deyton, Acting Director, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 3C20, 6003 Executive Boulevard, Rockville, Maryland 20892, telephone 301–496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855 Immunology, Allergic and Immunologic Diseases Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33495 Filed 12–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the National Deafness and Other Communication Disorders Advisory Council and Its Planning Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on January 21–22, 1998, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the Subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on January 21 from 2 p.m. until 3 p.m. for the discussion of policy issues. The meeting of the full Council will be open to the public on January 22 from 8:30 a.m. until 11:30 a.m. for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting of the Planning Subcommittee on January 21 will be closed to the public from 3 p.m. to adjournment. The meeting of the full Council will be closed to the public on January 22 from 12:30 p.m. until adjournment. The meetings will include the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meeting may be obtained from Dr. Craig A. Jordan, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, 6120 Executive Blvd., MSC67180, Bethesda, Maryland 20892, (301) 496–8693. A summary of the meeting and rosters of the members may also be obtained from his office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Jordan at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: December 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33496 Filed 12–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Clinical Sciences.
Date: January 7, 1998.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4214, Telephone Conference.
Contact Person: Dr. Dan McDonald, Scientific Review Administrator, 6701 Rockledge Drive, Room 4214, Bethesda, Maryland 20892, (301) 435–1215.

Name of SEP: Biological and Physiological Sciences.
Date: January 14, 1998.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 6158, Telephone Conference.
Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 6158, Bethesda, Maryland 20892, (301) 435–1780

Name of SEP: Microbiological and Immunological Sciences.
Date: January 14, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4186, Telephone Conference.
Contact Person: Dr. Gerald Liddel, Scientific Review Administrator, 6701 Rockledge Drive, Room 4186, Bethesda, Maryland 20892, (301) 435–1150.

Name of SEP: Microbiological Sciences.
Date: March 19–20, 1998.
Time: 8:30 a.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

Purpose/Agenda: To review Small Business Innovaiton Research.
Name of SEP: Multidisciplinary Sciences.
Date: March 9–10, 1998.
Time: 8:00 a.m.
Place: Woodfin Suites, Rockville, MD.
Contact Person: Dr. Nadarajen A. Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

The meetings 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 discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.892, 93.893, National Institutes of Health, HHS)

Dated: December 17, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33492 Filed 12–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: January 6, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5172, Telephone Conference.
Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Behavioral and Neurosciences.
Date: January 7, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5172, Telephone Conference.
Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Behavioral and Neurosciences.
Date: January 8, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5172, Telephone Conference.
Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Behavioral and Neurosciences.
Date: January 9, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5172, Telephone Conference.
Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

Name of SEP: Biological and Physiological Sciences.
Date: January 19, 1998.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 4148, Telephone Conference.
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.
Date: January 22, 1998.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 4148, Telephone Conference.
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

The meetings 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.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93,878, 93.892, 93,893, National Institutes of Health HHS)

Dated: December 17, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–33493 Filed 12–23–97; 8:45 am]

BILLING CODE 23–414–001–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–35]

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.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; 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 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to idenfy Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Propertites listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Interior: Ms. Lola Knight, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; Navy: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; (These are not toll-free numbers).

Dated: December 18, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/26/97

Suitable/Available Properties

Buildings (by State)

Michigan

Eagle Harbor Lighthouse/
Rt. 26
Eagle Harbor Co: Keweenaw MI 44950
Landholding Agency: GSA
Property Number: 549740018
Status: Excess
Comment: 2 bldgs., 3111 sq. ft. combined, presence of asbestos/lead paint, most recent use—museum and storage
GSA Number: 1–U–MI–420A

Virginia

Bldg. SP–247
Naval Base Norfolk
Norfolk VA 23511–
Landholding Agency: Navy
Property Number: 779720106
Status: Unutilized
Comment: 3206 sq. ft., no utilities, presence of asbestos/lead paint, off-site use only

Bldg. NM–59A
Naval Base Norfolk
Norfolk VA 23511–
Landholding Agency: Navy
Property Number: 779730069
Status: Excess
Comment: 14,044 sq. ft., presence of asbestos, most recent use—mobile facilities shop, off-site use only

West Virginia

Emit Jennings House
New River Gorge National River
Huffman Drive
McCreery Co: Raleigh WV 25934–
Landholding Agency: Interior
Property Number: 619740002
Status: Excess
Comment: 1400 sq. ft. concrete block, needs rehab, off-site use only

Webb House
New River Gorge National River
Rt. 41 North
McCreery Co: Raleigh WV 25934–
Landholding Agency: Interior
Property Number: 619740003
Status: Excess
Comment: 288 sq. ft. dwelling, off-site use only

Gilliam House
New River Gorge National River
Rt. 41 North
McCreery Co: Raleigh WV 25934–
Landholding Agency: Interior
Property Number: 619740004
Status: Excess
Comment: 448 sq. ft. dwelling, off-site use only

Unsuitable Properties

Buildings (by State)

Guam

Bldg. 609
Naval Forces Marianas
ComNavMar Co: Waterfront Annex GU 96540–0051
Landholding Agency: Navy
Property Number: 779740085
Status: Unutilized
Reason: Secured Area Extensive deterioration

Bldg. 611
Naval Forces Marianas
ComNavMar Co: Waterfront Annex GU 96540–0051
Landholding Agency: Navy
Property Number: 779740086
Status: Unutilized
Reason: Secured Area Extensive deterioration

North Carolina

Bldg. 45, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779740087
Status: Excess
Reason: Secured Area Extensive deterioration

Bldg. 420, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779740088
Status: Excess
Reason: Secured Area Extensive deterioration

Bldg. TP463, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779740089
Status: Excess
Reason: Secured Area Extensive deterioration

Ohio

Newtown Fish Toxicology
3411 Church Street
Newton Co: Hamilton OH 44244–
Landholding Agency: GSA
Property Number: 549740019
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material within airport runway clear zone
GSA Number: 1–Z–OH–806

[FR Doc. 97–33503 Filed 12–23–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–

Endangered and Threatened Wildlife and Plants; Extension of Comment Period for Draft Conservation Agreement for the Wasatch Front and West Desert Populations (Utah) of Spotted Frog (Rana luteiventris)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: The Fish and Wildlife Service announces an extension of the public review and comment period for the Draft Conservation Agreement for the spotted frog *(Rana luteiventris)* in Utah. The Service announced the availability of the draft Conservation Agreement for the Wasatch Front and West Desert populations (Utah) of spotted frog for review and comment on November 28, 1997 (62 FR 63375). The original comment period requested comments be received on or before December 29, 1997. On December 16, 1997, the Service received an official request for an extension of the comment period to the week of January 13, 1998.

DATES: Comments on the Draft Conservation Agreement must now be received on or before January 16, 1998, to be considered by the Service during preparation of the final conservation agreement and prior to the Service's determination whether it will be a signatory party to the agreement.

ADDRESSES: Persons wishing to review the Draft Conservation Agreement may obtain a copy by contacting the Field Supervisor, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115. Written comments and materials regarding the Draft Conservation Agreement should also be directed to the same address. Comments and written materials will be available upon request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Reed E. Harris, Field Supervisor (see **ADDRESSES** section) (telephone 801/524–5001).

SUPPLEMENTARY INFORMATION: The spotted frog *(Rana luteiventris)* is a candidate for Federal listing pursuant to the Endangered Species Act of 1973, as amended. In 1989 the Service received a petition from the Board of Directors of the Utah Nature Study Society requesting that the Service add the spotted frog (then referred to as *Rana pretiosa)* to the List of Threatened and Endangered Species. The Service subsequently published a notice of a 90-day finding in the **Federal Register** (54 FR 42529) on October 17, 1990, and a notice of a 12-month petition finding in the **Federal Register** (58 FR 27260) on May 7, 1993. In the 12-month petition finding the Service found that listing of the spotted frog as threatened in some portions of its range was warranted but precluded by other higher priority listing actions.

Shortly after the 12-month petition finding the Utah Department of Natural Resources began development of a Conservation Agreement, working cooperatively with other agencies, in an effort to reduce the threats affecting the spotted frog.

Public Comments Solicited

The Service will use information received in its determination on whether it should be a signatory party to the agreement. Comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning this draft document are hereby solicited. All comments and materials received will be considered prior to the approval of any final document.

Author

The primary author of this notice is Janet A. Mizzi, Utah Field Office (see **ADDRESSES** section) (telephone 801/524–5001).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Act of 1956, the Fish and Wildlife Service Coordination Act of 1964, and the National Memorandum of Understanding (94(SMU–056)).

Dated: December 18, 1997.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 97–33538 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Federal Acknowledgment of the Mobile-Washington County Band of Choctaw Indians of South Alabama (MOWA)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8.

Notice is hereby given that the Assistant Secretary declines to acknowledge that the Mobile—Washington County Band of Choctaw Indians of South Alabama (MOWA), 1080 West Red Fox Road, Mt. Vernon, Alabama 36560, exists as an Indian tribe within the meaning of Federal law. This notice is based on the determination that the group does not satisfy one of the mandatory criteria set forth in 25 CFR

83.7, namely criterion 83.7 (e). Therefore, the MOWA do not meet the requirements necessary for a government-to-government relationship with the United States, 25 CFR 83.10 (m).

DATES: This determination is final and is effective 90 days after publication in the **Federal Register**, unless a request for reconsideration is filed with the Interior Board of Indian Appeals (IBIA) by the petitioner or any interested party no later than 90 days after publication, 25 CFR 83.11.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Chief, Branch of Acknowledgment and Research, (202) 208–3592. A request for a copy of the report which summarizes the evidence and analyses that are the basis for this Final Determination should be addressed to the Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street NW, Mailstop 4603-MIB, Washington, D.C. 20240, or is available at www.doi.gov/bia/ack__res.html.

SUPPLEMENTARY INFORMATION: The MOWA submitted a documented petition on April 28, 1988, and received an ''obvious deficiency review'' (OD) from the Bureau of Indian Affairs (BIA) dated February 15, 1990. On November 8, 1991, the MOWA responded to the OD review and on November 19, 1991, the petition was placed on the ''ready'' list of petitioners waiting to be placed on active consideration. The AS-IA's investigation of the petition and response to the OD review found little or no evidence that the petitioner can meet criterion (e) of 83.7, descent from a historical tribe or from historical tribes which combined and functioned as a single autonomous political entity.

Under 25 CFR 83.10 (e) of the Federal acknowledgment regulations, an expedited Proposed Finding may be issued by the Assistant Secretary when there is little or no evidence that the petitioner can meet one of the mandatory criteria (e), (f), or (g) of 83.7. Expedited findings may only be done after the petition is complete and before the petition has been placed on active consideration. A notice of the expedited Proposed Finding to decline to acknowledge the MOWA was published in the **Federal Register** on January 5, 1995 (60 FR 1874).

The Proposed Finding found that the petitioner clearly did not meet the requirements of criterion 83.7 (e), descent from a historical tribe. To make a Proposed Finding under 83.10 (e), the burden of proof is on the Government to show that the petitioner clearly does not meet the criterion. The Proposed Finding demonstrated that the MOWA clearly did not meet criterion 83.7 (e), thus meeting the burden of proof required of the Government for making a Proposed Finding under 83.10 (e).

Once the Proposed Finding has been issued, however, the burden of proof shifts to the petitioner for rebuttal. The standard of proof which must be met in the petitioner's response to the Proposed Finding is a lesser one, the ''reasonable likelihood of the validity of the facts'' standard described in 25 CFR 83.6, the same standard used for all acknowledgment determinations. If, in its response to the Proposed Finding, the petitioner can show that it meets the ''reasonable likelihood of the validity of the facts'' standard, and thus demonstrates descent from a historical tribe, or historical tribes which amalgamated, then the BIA will undertake a full review of the petition under all seven of the mandatory criteria. However, the MOWA's response to the Proposed Finding did not establish under the ''reasonable likelihood of the validity of the facts'' standard that the MOWA met criterion 83.7 (e). No new evidence was submitted or found which rebutted the conclusions of the Proposed Finding. Therefore, the MOWA response did not trigger a BIA evaluation of the MOWA petition under all seven mandatory criteria.

The Final Determination is based upon a new analysis of all the information in the record. This includes the information available for the Proposed Finding, the information submitted by the petitioner in its response to the Proposed Finding, and new evidence collected by the BIA researchers for evaluation purposes. Interested and informed parties did not submit evidence during the comment period. Two individuals submitted comments after the close of the response period, which were not considered in the preparation of the final determination in accord with 25 CFR 83.10 (l) (l). Also, numerous form letters were received out of time and all were transmitted to the Solicitor's office for retention for transmittal to the IBIA or the AS-IA in the event of a remand. None of the evidence submitted by the petitioner or located by the BIA during the evaluation process demonstrates that the core ancestors of the MOWA were Choctaw or of other Indian ancestry.

Initially the petitioner claimed descent from six historical Indian tribes: Apache, Cherokee, Chickasaw, Choctaw, Creek, and Houma. In its Response to the Proposed Finding, the petitioner continued to claim ancestry only from the historical Choctaw, Cherokee, and Creek tribes and narrowed its core ancestors from 30 to 5 individuals. The petitioner submitted additional evidence on four of the five of these ancestors from whom it claimed descent. The BIA searched for evidence, but could not locate any evidence connecting these four claimed core ancestors to the Choctaw or to any other historical tribe. Neither the petitioner nor the BIA found documentation acceptable to the Secretary that the core ancestors claimed to be Indian by the MOWA, were descendants of the historical Choctaw tribe or any other Native American tribe.

The BIA found that all the MOWA members descend from two core families that resided in southwestern Alabama by about 1830. Neither these two families nor their ancestors were found to be members of a historical tribe of American Indians, or of tribes which had combined and functioned as a single American Indian entity. The extensive evidence on these two families either does not support, or in part disproves, Indian ancestry. Only one percent of the petitioner's membership could document any American Indian ancestry through the fifth core ancestor (see above) whose lines married into the families in the late 1880's and early 1900's. Except for this one percent, Indian records for Alabama do not include the known ancestors of the petitioner. There was no evidence in the substantial body of documentation submitted by the petitioner, or in the independent research by the BIA, to demonstrate Choctaw ancestry or any other Indian ancestry for 99% of the petitioner's membership. Thus, the petitioner fails to meet criterion (e), descent from a historical tribe.

The Proposed Finding concluded that the petitioner's claim that its members descended from ''full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during the Indian removal in the 1830's'' is not valid. The AS-IA found that:

(1) The petitioner's core ancestral families did not have documented American Indian ancestry;

(2) The actual MOWA progenitors from the 1880's were not documented as descendants of the known, removal-era, Indians claimed by the petitioner; and

(3) Many of the persons in the early 19th century ''founding Indian community'' claimed by the petitioner were not demonstrated to be Choctaw, or even American Indian.

(4) Only one percent of the petitioner's membership can document American Indian ancestry.

In its response to the Proposed Finding, the petitioner submitted evidence including letters, photographs, interviews, school/church records, published secondary sources, newspaper/journal articles, court documents, Federal documents, land records, maps, and time lines. Every piece of evidence submitted was reviewed and it is concluded that:

(1) Some of the evidence was either irrelevant to criterion 83.7(e) because it did not demonstrate genealogical descent from four claimed ancestors or descent from any historical tribe;

(2) Much of the evidence was oral history and was unreliable when tested. Much of the evidence was found to be unsubstantiated by primary documentation; and

(3) The evidence did not connect known MOWA ancestors to the individuals whom the MOWA claimed were Native American or to a historical Indian tribe.

(4) The evidence disproved Indian ancestry to some of the MOWA ancestors.

The BIA searched for evidence on the local, state, and national levels. The core ancestors of the petitioning group are known. None of the primary records demonstrated that these documented, known core ancestors were American Indian, or were descendants of a historical tribe. The BIA also searched the records of the historical tribes which the petitioner claimed and found no connection between the MOWA core ancestors and these historical tribes.

The MOWA response to the Proposed Finding offered no basis for reversing the conclusions of the Proposed Finding against Federal acknowledgment of the MOWA. The evidence in the record does not support the petitioner's claim that it descends from a historical tribe. The record does not provide substantive evidence or any reason to believe that additional research might uncover such evidence. The MOWA petitioner has not demonstrated by a ''reasonable likelihood of the validity of the facts'' standard that it meets the requirements of criterion 83.7(e). There is thus no need to complete a full evaluation of the documented petition under all seven of the mandatory criteria. The petitioner fails to meet the requirements for Federal acknowledgment as an Indian Tribe.

The Proposed Finding which declined to acknowledge that the petitioner is an Indian tribe is affirmed. This determination is final and will become effective 90 days from the date of publication unless the petitioner or any interested party files a request for reconsideration of this determination with the Interior Board of Indian Appeals (83.11(a)(1)). The petitioner's or interested party's request must be received no later than 90 days after the publication of the Assistant Secretary's determination in the **Federal Register** (83.11(a)(2)).

Dated: December 17, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–33532 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability and Public Comment Period on Supplemental Analysis to Environmental Assessment No. CA–069–EA7–42; Tritium and Related Materials Testing on Public Lands in Ward Valley, San Bernardino County, CA

AGENCY: Bureau of Land Management.

ACTION: Public comment period on Supplemental Analysis.

SUMMARY: The Department of the Interior (DOI), Bureau of Land Management (BLM) has prepared a Supplemental Analysis on simultaneous drilling activities by DOI/BLM and the State of California, Department of Health Services, and on related issues.

EFFECTIVE DATE: Public comments on the Supplemental Analysis must be received by January 9, 1998.

ADDRESSES: Copies of the Supplemental Analysis may be obtained upon request. Submit requests to: External Affairs Staff, Bureau of Land Management, California Desert District, 6221 Box Springs Blvd., Riverside, CA 92507; or to: External Affairs Staff, Bureau of Land Management, California State Office, 2135 Butano Drive, Sacramento, California 95825. The EA is also available on the Internet at: www.ca.blm.gov.

SUPPLEMENTARY INFORMATION: DOI and BLM prepared an Environmental Assessment, EA No. CA–069–EA7–42, on proposed tritium and related materials testing and a proposal by the State of California to conduct rainfall infiltration studies. The EA was released for public review on November 6, 1997. Since the initial EA was released, new information has become available that is relevant to the DOI/BLM and State proposals. Specifically, a simultaneous drilling alternative is under consideration, and more information concerning unexploded military ordnance on site has become available. These topics are analyzed in the Supplemental Analysis which is being distributed for public review through January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ward Valley Project Coordinator Bureau of Land Management, California State Office, 2135 Butano Drive, Sacramento, California 95825; tel: (916) 978–4630.

Carl Rountree,

Deputy State Director, Natural Resources.

[FR Doc. 97–33544 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–61–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting, notice of meeting.

SUMMARY: This notice announces a tour and meeting of the Arizona Resource Advisory Council. The tour and meeting will be held January 23–24, 1998 in Safford, Arizona. On January 23, the RAC will tour a grazing allotment along the Gila River and discuss various issues involved in the Safford Field Office Livestock Grazing Biological Opinion. The tour will start at 8:00 a.m. from the BLM Safford Field Office and will conclude at 5:00 p.m. The Safford Field Office is located at 711 14th Avenue. On January 24, the RAC will conduct a one-day business meeting. Again, the meeting will be held at the Safford Field Office, starting at 8:00 am. until approximately 2:00 p.m. The agenda items to be covered at the meeting include review of previous meeting minutes; BLM State Director's Update on legislation, regulations and statewide planning efforts; Update on Safford and Tucson Biological Opinions; Presentation on a study performed on the Gila River Watershed and its Runoff; and Reports by the Standards and Guidelines, Recreation and Public Relations Working Groups; Reports from RAC members; RAC Discussion on future meeting dates and locations. A public comment period will take place at 11:30 a.m. January 24, 1998 for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land

Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9215.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 97–33539 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–01; WYW 126227]

Opening of Land in a Proposed Withdrawal; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice cancels a withdrawal application insofar as it affects 1410.00 acres of public land and opens the land to surface entry and mining. It has been and remains open to mineral leasing. The remaining portion of the withdrawal application will continue to be processed unless it is cancelled or denied.

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office (WY 921), P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal published in the **Federal Register**, 59 FR 5441, on February 4, 1994, for the Bureau of Land Management (BLM) to protect important paleontological resources on Big Cedar Ridge near Tensleep, Wyoming. After completing an environmental assessment, the BLM determined that certain land is no longer needed for the withdrawal. The land is described as follows:

Sixth Principal Meridian, Wyoming

T. 45 N., R. 89 W.,
Sec. 8, E½SE¼;
Sec. 9, W½SW¼;
Sec. 16, W½NW¼, S½SW¼SW¼;
Sec. 17, E½E½;
Sec. 20, E½E½;
Sec. 21, W½W½, NE¼NW¼, NE¼SE¼NW¼;
Sec. 28, W½E½NW¼, NE¼SE¼NW¼, W½NW¼, N½SW¼, N½SW¼SW¼, SW¼SW¼SW¼;
Sec. 29, E½E½;
Sec. 32, E½NE¼;
Sec. 33, NE¼NE¼NW¼, NW¼NW¼NW¼, S½N½NW¼, S½NW¼.

The area described contains 1,410 acres in Washakie County.

At 9 a.m. on December 24, 1997 the land will be opened to location and entry under the general land laws, including the United States mining laws, subject to valid existing rights, the provision of existing withdrawals, and other segregations of record. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Alan R. Pierson,

State Director.

[FR Doc. 97–33536 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–1230–00]

Special Area—Fee Adjustment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of fee adjustment for use of Special Area within Butte County, California.

SUMMARY: The BLM is adjusting the daily fee from $2.50 per site, per day to $5.00 per site, per day for recreational mineral collection at the Forks of Butte Creek Special Recreation Management Area. This fee adjustment is required to reflect the current market value of the recreation opportunity being offered by BLM, and to reduce over-crowding and degradation within the Special Recreation Management Area.

DATES: This fee adjustment will take effect January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Area Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002.

SUPPLEMENTARY INFORMATION: The Forks of Butte Creek Special Recreation Management Area in Butte County, California, was placed under protective withdrawal (S 4528) by Public Land Order 5329 on January 18, 1973, to segregate the area from all forms of appropriation, including the mining laws. While the mineral rights to much of this area continue to be held under mining claims that pre-date this withdrawal, several segments (sites) of Butte Creek are not encumbered with mining claims. These sites have become extremely popular for recreational mineral collection via panning, sluicing and dredging.

The authority for this fee adjustment is 43 CFR 8372. Any person who engages in mineral collection within the Forks of Butte Creek Special Recreation Area in violation of permit terms or stipulations may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Charles M. Schultz,

Redding Area Manager.

[FR Doc. 97–33409 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–010–98–1610]

Arizona Strip District Resource Management Plan: Intent To Amend

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to amend the Arizona Strip Resource Management Plan, Arizona.

SUMMARY: Pursuant to the BLM Planning Regulations (43 CFR part 1600) this notice advises the public that the Arizona Strip Field Office, Bureau of Land Management, is proposing to amend the Arizona Strip Resource Management Plan to establish allowable resource uses on the Lee's Ferry Grazing Allotment. In accordance with 43 CFR part 4100.0–8 ''The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, * * *''. The Bureau of Land Management, in cooperation with the Lee's Ferry Grazing permittee, desires to retire the grazing preferences associated with the grazing allotment to alleviate conflicts between livestock and recreationist using the narrow Paria River Canyon corridor.

The main issues anticipated in this plan amendment are: (1) potential impacts on recreation opportunities; (2), and potential impacts on the socio-economics of Coconino County, Arizona.

This amendment is limited to the area contained within the Lee's Ferry Allotment on the Arizona Strip.

A land use plan amendment and environmental analysis will be prepared for the subject lands by an interdisciplinary team including range, wildlife, and recreation specialists.

DATES: Interested parties may submit comments to the Field Manager at the address shown below on or before February 20, 1998.

ADDRESSES: Comments should be sent to the Field Manager, Bureau of Land Management, Arizona Strip BLM, 345 E. Riverside Drive, St. George, Utah 84790.

FOR FURTHER INFORMATION CONTACT: Robert Sandberg, Arizona Strip Field Office, Bureau of Land Management, 345 E. Riverside Drive, St. George, Utah 84790, (435) 688–3200 to obtain additional information regarding this plan amendment. The existing land use plans and maps are available for review at the Interagency Office in St. George, Utah.

George Cropper,

Program Manager.

[FR Doc. 97–33545 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

[NM–070–1050–00]

Cultural Resources Areas Critical Environmental Concern (ACECs) for the Farmington District, NM

AGENCY: Bureau of Land Management (BLM) Interior.

ACTION: Notice of availability and 60-day comment period.

SUMMARY: The BLM, Farmington District announces the availability of a draft Resource Management Plan (RMP) Amendment/preliminary Finding of No Significant Impact and Supporting Environmental Assessment (EA). This document discusses the designation of 44 new ACESs including the expansion of three existing Special Management Area and their designation as ACESs. Approximately 10,592.76 federal acres are identified for designation. In addition to designation, the plan amendment, when approved, will guide the BLM programs and management practices within the ACECs.

DATES: Written comments relating to the designation of ACECs, management activities within the ACECs, and the EA will be taken for the next 60 days. Comments must be postmarked on or before March 11, 1998.

ADDRESSES: Comments should be sent to District Manager, BLM Farmington District, 1235 La Plata Highway, Suite A, Farmington, New Mexico 87401.

FOR FURTHER INFORMATION CONTACT: Lee Otteni, District Manager, BLM Farmington District at (505) 599–6300 or Peggy Gaudy, Project Leader, Farmington District at (505) 599–6337.

SUPPLEMENTARY INFORMATION: ACECs are land designations unique to the BLM. The purpose of ACECs is to recognize, protect, and manage unique or sensitive resources of potential hazards to the public. Each area receives management or protection based on its unique needs, in consultation and coordination with the public. The Farmington District has completed inventories of areas containing unique or sensitive cultural resources and has designated a sample as ACECs. In addition the District has reviewed nominations both internally and from the public to consider several areas as ACECs based on cultural values.

The draft document discusses two alternatives, the No Action Alternative and the Proposed Action. The BLM's preferred alternative is to implement the Proposed Action by designating and managing 44 new ACECs, including the expansion of three existing Special Management Areas and their designation as ACECs. These management prescription proposals represent the highest level of resource protection and continued public use.

The proposed ACECs represent seven site types: Chacoan Outliers, Chacoan Roads, Navajo Refugee (Pueblito) Sites, Navajo Habitation Sites (Non-pueblito), Pictograph and Petroglyph Sites, Historic Sites, and Native American Traditional Use and Sacred Areas. Management prescriptions are site specific depending on both the site type and the current development in each proposed ACEC.

Eight Chacoan Outliers have been identified and proposed for ACEC designation. They are:

Name	Legal description	
Toh-la-kai	T16N R18W	Sec. 33 SW/4SE/4SE/4.
Bee Burrow	T19N R11W	Sec. 27 W/2SW/4, S/2NW/4.
		Sec. 28 SE/4, S/2NE/4.
		Sec. 29 SW/4SE/4.
		Sec. 33 N/2N/2NE/4.
Indian Creek	T20N R13W	Sec. 7 S/2NW/4, W/2SW/4NE/4.
Upper Kin Klizhin	T20N R11W	Sec. 22 NE/4NE/4.
		Sec. 23 W/2NW/4NW/4.
Bis sa' ani	T21N R9W	Sec. 3 portions of N/2NW/4.
		Sec. 4 portions of N/2N/2.
Morris 41	T32N R13W	Sec. 15 SE/4SW/4, portions of NE/4SW/4, portions of W/2SW/4SE/4.
Andrews Ranch	T14N R11W	Sec. 32 NE/4NE/4SE/4, S/2SE/4NE/4.
		Sec. 33 all.
		Sec. 34 SW/4, NE/4SE/4, S/2SW/4NE/4, W/2NE/4SE/4, SW/4SE/4NE/4.
Church Rock Outlier	T16N R16W	Sec. 20 SE/4.

Management prescriptions for Chacoan Outliers vary slightly with the needs of each site, but in general they include preparation of Cultural Resources Management Plans at sites without existing plans, designation as ''closed'' or ''limited'' Off-Highway Vehicle (OHV) areas, if possible acquisition of non-federal minerals, withdrawal from mineral leasing or sale, coordination with lease holders to minimize resource damage and withdrawal from land or resource modification or sale. No new rights-of-way will be issued. The only exception is where a new right-of-way will be issued in existing disturbance at Church Rock Outlier. The BLM will coordinate with existing right-of-way and easement holders, and continue monitoring and patrol programs. Also proposed is complete Historic American Buildings Survey (HABS) documentation on sites which have not been documented, stabilize structures as needed, conduct cultural inventories, complete cadastral survey and fences as needed, nominate to the National Register of Historic Places and World Heritage List, consolidate previous research data, and designate as Class I Visual Resource Management areas. Church Rock Outlier will be proposed for inclusion as a Chaco Culture Archaeological Protection Site. Private and state lands have been identified for acquisition at Andrews Ranch if there are willing participants.

Three Chacoan Roads have been identified and proposed for ACEC designation. They are:

Name	Legal description	
North Road:.		
Segment 1	T23N R10W	Sec. 17 W/2W/2SW/4.
		Sec. 18 W/2W/2W/2.
		Sec. 19 W/2W/2W2.
		Sec. 30 W/2W/2W2.
	T23N R11W	Sec. 12 SE/4.
		Sec. 13 E/2.
		Sec. 24 E/4.
		Sec. 25 SE/4.
Segment 2	T23N R10W	Sec. 6 W/2W/2.
	T23N R11W	Sec. 1 N/2SE/4, SW/4SE/4, N/2SE/4SE/4.
	T24N 410W	Sec. 31 W/2W/2.
	T24N R11W	Sec. 36 E/2.
Segment 3	T24N R10W	Sec. 7 W/2W/2.
		Sec. 18 W/2W/2.
		Sec. 19 W/2W/2.
		Sec. 30 NW/4NW/4.
	T24N R11W	Sec. 12 E/2SE/4.
Segment 4	T24N R11W	Sec. 1 E/2SE/4.
Segment 5	T25N R10W	Sec. 30 SW/4.
		Sec. 31 NW/4.
Segment 6	T25N R10W	Sec. 19 E/2NW/4, E/2NW/4NW/4, E/2SW/4NW/4, W/2W/2NE/4.
Segment 7	T25N R10W	Sec. 6 E/2NW/4, E/2SW/4, W/2SE/4.
		Sec. 7 E/2W/2W/2.
	T26N R10W	Sec. 6 E/2.
		Sec. 18 E/2.
		Sec. 19 W/2E/2, W/2E/2E/2, E/2E/2W/2.
		Sec. 30 W/2E/2, W/2E/2E/2, E/2E/2W/2.
		Sec. 31 W/2E/2, E/2W/2.
	T27N R10W	Sec. 31 E/2.
Ah-shi-sle-pah Road	T22N R11W	Sec. 6 all.
Crownpoint Steps and Herradura	T16N R12W	Sec. 6 all.

Management prescriptions for Chacoan Roads vary slightly with the needs of each site, but in general they include preparation of Cultural Resource Management Plans, designation as ''closed'' or ''limited'' Off-Highway Vehicle areas, if possible acquisition of minerals which are not under federal ownership, withdrawal from oil and gas leasing or sale under 160 acres, with other ''no surface occupancy'' lease stipulation on other parcels, withdrawal from other mineral entry, withdrawal from land or resource modification or sale, coordination with existing lease holders to minimize resource damage, and acquisition of identified private lands. No new rights-of-way will be issued in the 160 acres containing Halfway House or the Crownpoint Steps and Herradura parcel, or across parallel roads and the ''Quads.'' In other areas, rights-of-way will only be authorized with intensive roads inventory. The BLM will coordinate with existing right-of-way holders. Also proposed is to conduct roads inventories, nominate to National Register of Historic Places, consolidate previous research date, and designate as Class II Visual Resource Management areas (the 40 acres containing Halfway House in Segment 6 have already been designated and will remain a Class I area).

Nine Navajo Refugee (Pueblito) Sites have been identified and proposed for ACEC designation. They are:

Name	Legal description	
Deer House	T24N R7W	Sec. 15 NW/4NW/4.
NM 01–39344	T27N R7W	Sec. 33 NE/4SW/4, NW/4SE/4.
Kachina Mask	T28N R8W	Sec. 11 SW/4SE/4SW/4.
Hummingbird	T24N R6W	Sec. 29 NW/4SW/4.
Blanco Mesa	T26N R8W	Sec. 12 S/2NW/4SE/4, N/2SW/4SE/4, S/2NE/4SW/4, SE/4NW/4SW/4, E/2SW/4SW/4, NE/4SE/4SW/4, W/2SE/4SW/4.
Ye'is-in-Row	T28N R6W	Sec. 20 NW/4NE/4.
Kiva	T26N R7W	Sec. 14 W/2NE/4NE/4, E/2NW/4NE/4.
Pretty Woman	T25N R8W	Sec. 21 E/2E/2NE/4.
		Sec. 22 W/2W/NW/4.
Gomez Point	T27N R7W	Sec. 1 S/2SW/4NW/4, N/2SW/4SW/4, SW/4SE/4NW/4, NW/4NE/4SE/4.

Management prescriptions for Navajo Refugee (Pueblito) Sites vary slightly with the needs of each site, but in general they include preparation of Cultural Resource Management Plans, designation as ''closed'' or ''limited'' Off-Highway Vehicle areas, no surface occupancy oil and gas lease stipulation withdrawal from non-oil and gas mineral leasing or sale, coordination with lease holders to minimize resource damage, and withdrawal from land or resource modification or sale. New rights-of-way will only be authorized in existing right-of-way disturbance and the BLM will coordinate with existing right-of-way and easement holders. Also proposed is complete Historic America Building Survey documentation, nominate to National Register of Historic Places, and stabilize structure as needed. The proposed ACECs will be designated as Class II Visual Resource Management areas.

Two Navajo Habitation Sites (Non-pueblito) have been identified and proposed for ACEC designation. They are:

Name	Legal description	
Gould Pass Camp	T27N R7W	Sec. 6 W/2SW/4NW/4.

Name	Legal description	
Superior Mesa Community	T27N R8W T26N R7W	Sec. 1 E/2SE/4NE/4. Sec. 26 W/2W/2, W/2NE/4NW/4, W/2SE/4NW/4, W/2SNE/4SW/4, W/2SE/4SW/4. Sec. 27 E/2E/2

Management prescriptions for the Navajo Habitation Sites (Non-pueblito) include preparation of Cultural Resource Management Plans, designation as ''closed'' OHV area at Gould Pass Camp and ''limited'' OHV area at Superior Mesa Community, no surface occupancy oil and gas lease stipulation, withdrawal from non-oil and gas mineral leasing or sale, coordination with lease holders to minimize resource damage, and withdrawal from land or resource modification or sale. Also proposed is that new rights-of-way will only be authized in existing right-of-way disturbance, coordinate with exiting right-of-way holders, and designate as Class II Visual Resource Management areas. The ACECs will be nominated to the National Register of Historic Places.

Fifteen Petroglyph and Pictograph Sites have been identified and proposed for ACEC designation. They are:

Name	Legal description	
Pregnant Basketmaker	T30N R8W	Sec. 35 S/2SW/4NE/4SW/4, N/2NW/4SE/4SW/4.
Encierro Canyon	T28N R6W	Sec. 29 S/2NE/4.
NM 01–39236	T27N R6W	Sec. 6 NW/4NW/4SW/4.
Delgadita/Pueblo Canyons	T28N R7W	Sec. 16 W/2NE/4, N/2N/2SW/4, S/2S/2NW/4, N/2N/2SE/4.
Cibola Canyon	T26N R7W	Sec. 36 S/2SE/4SW/4.
	T25N R7W	Sec. 1 N/2NE/4NW/4.
Bi Yaazh	T24N R7W	Sec. 23 E/2NW/4NW/4, W/2NE/4NW/4.
Four Ye'i	T24N R6W	Sec. 10 SE/4NW/4SE/4,SW/4NE/4SE/4, NE/4SW/4SE/4, NW/4SE/4SE/4.
Largo Canyon Star Ceiling	T27N R8W	Sec. 3 N/2SE/4SE/4.
Star Spring	T29N R8W	Sec. 35 E/2SE/4NE/4. Sec. 36 W/2W/2SW/4NW/4.
Blanco Star Panel	T28N R9W	Sec. 26 S/2SE/4SW/4.
Shield Bearer	T30N R8W	Sec. 34 SE/4NE/4NE/4, NE/4SE/4NE/4. Sec. 35 SW/4NW/4NW/4, NW/4SW/4NW/4.
Big Star	T27N R7W	Sec. 3 SE/4SE/4.
Rabbit Tracks	T27N R6W	Sec. 6 S/2NE/4NW/4NW/4, N/2SE/4NW/4NW/4.
Carrizo Cranes	T27N R6W	Sec. 6 NE/4NE/4SW/4, N/2SE/4NE/4SW/4.
Martinez Canyon	T27N R6W	Sec. 10 W/2SW/4SE/4, E/2SE/4SW/4.

Management prescriptions for Petroglyph and Piectograh Sites vary slightly with the needs of each site, but in general they include preparation of Cultural Resource Management Plans, designation as ''closed'' or ''limited'' Off-Highway Vehicle areas, no surface occupancy oil and gas lease stipulation, withdrawal from non-oil and gas mineral leasing or sale, coordination with lease holders to minimize resource damage, and withdrawal from land or resource modification or sale. State land and minerals at two sites and private surface at one site have been identified for acquisition if there are willing participants. New rights-of-way will only be authorized in existing right-of-way disturbance and the BLM will coordinate with existing right-of-way holders. Also proposed is nomination to the National Register of Historic Places, Class III cultural inventories including detail documentation of images, withdrawal of 55 acres from grazing, and designation as Class II Visual Resource Management areas.

Six Historic Sites have been identified and are proposed for ACEC designation. They are:

Name	Legal description	
Dogie Canyon School	T26N R6W	Sec. 19 NW/4NE/4SW/4.
Rock House—Nestor Martin Homestead	T25N R6W	Sec. 27 W/2SW/4SW/4. Sec. 28 E/2E/2SE/4SE/4.
Gonzales Canyon—Senon S	T25N R6W	Sec. 23 E/2SE/4NE/4. Sec. 24 W/2SW/4NW/4.
Martin Apodaco Homestead	T25N R6W	Sec. 35 NW/4NE/4SW/4, N/2NW/4SW/4, SE/4NW/4, S/2SW/4NW/4.
Margarita Martinez Homestead	T24N R6W	Sec. 10 SE/4NW/4NW/4.
Santos Peak	T27N R5W	Sec. 6 SE/4SE/4, S/2NE/4SE/4, SE/4NW/4SE/4, E/2,SW/4NE/4. Sec. 7 N/2NE/4NE/4, NE/4NW/4NE/4.

Management prescriptions for Historic Sites vary slightly with the needs of each site, but in general they include preparation of Cultural Resource Management Plans, designation as ''closed'' or ''limited'' Off-Highway Vehicle areas, no surface occupancy oil and gas lease stipulation, withdrawal from non-oil and gas mineral leasing or sale, coordination with lease holders to minimize resource damage, and withdrawal from land or resource modification or sale. New rights-of-way will only be authorized in existing rights-of-way disturbance and the BLM will coordinate with existing right-of-way and easement holders. Also proposed is nomination to the National Register of Historic Places, conduct stabilization of structures as needed, withdrawal of 35 acres from grazing and designation as Class II Visual Resource Management area. Private minerals have been identified for acquisition at three sites.

One Native American Traditional Use and Sacred Area has been identified and is proposed for ACEC designation. It is:

Name	Legal description	
Cho'li'i [Gobernador Knob]	T28N R5W	Sec. 22 SE/4SE/4.

Name	Legal description
	Sec. 23 S/2SW/4. Sec. 26 NW/4. Sec. 27 E/2NE/4.

Management prescriptions for the Native American Traditional use and Sacred Area include preparation of a Cultural Resource Management Plan, designation as a ''limited'' Off-Highway Vehicle area, no surface occupancy oil and gas lease stipulation, withdrawal from non-oil and gas mineral leasing or sale, coordination with lease holders to minimize resource damage, and withdrawal from land or resource modification or sale. New rights-of-way will only be authorized in existing right-of-way disturbance and the BLM will coordinate with existing right-of-way holders. Also proposes is nomination to the National Register of Historic Places, conduct Class III cultural and ethnographic inventories, and designation as Class II Visual Resource Management area. The area will remain open for Native American religious practices.

Additional data on management prescriptions for individual ACECs can be found in this RMP amendment.

Public participation has occurred throughout the RMP Amendment process. A Notice of Intent was filed in the **Federal Register** (Vol. 61, No. 39 Pages 7273–7274) on February 27, 1996. An article was published in the Farmington Daily Times on March 6, 1996, notifying the public that the BLM was requesting public input on proposed ACECs. Comments received during this 60-day comment period will be considered in preparation of the Farmington RMP Amendment and supporting EA. Copies have been sent to identified concerned and affected publics. A public meeting on this document is scheduled for February 10, 1998. Single copies of the draft Farmington RMP Amendment/ Preliminary Finding of No Significant Impact (FONSI) and supporting EA for the 44 ACECs may be obtained from the BLM Farmington District, 1235 La Plata Highway, Suite A, Farmington, NM 87401. A public reading copy is available for review at the BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico.

Dated: December 22, 1997.

Lee Otteni,

District Manager, Farmington.

[FR Doc. 97–33540 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Glacier Bay National Park and Preserve; Notice of Public Workshops on Commercial Fishing

AGENCIES: National Park Service, Interior.

ACTION: Notice of Public Workshops on Glacier Bay National Park Commercial Fishing Proposal

SUMMARY: The National Park Service will conduct public workshops on the Glacier Bay National Park commercial fishing proposal in Juneau, Alaska in January and February, 1998. The workshops will include discussion of data and management information regarding commercial fisheries occurring within the park, and ongoing and proposed research associated with commercial fishing activities. NPS published a Proposed Rule on April 16, 1997 (62 FR 18547) and is preparing an Environmental Assessment regarding commercial fishing within the park scheduled for release in March, 1998. NPS is sponsoring public workshops to improve public understanding of issues associated with commercial fishing in the park. Open houses and formal public hearings on the Proposed Rule and Environmental Assessment will be held in April, 1998 in Alaskan communities and Seattle, Washington before the May 15, 1998 public comment deadline. Notice of these hearings will be published in the **Federal Register.**

DATES: Public workshops will be held on January 8 and February 3, 1998 from 10:00 a.m. to 5:00 p.m.

LOCATIONS: The January 8 public workshop will be held in the Hickel Room at Centennial Hall in Juneau, Alaska. The February 3 public workshop will be held in the Lumberjack Room at the Westmark Hotel, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: J. M. Brady, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826, Telephone: (907) 697–2230.

Dated: December 12, 1997.

John Quinley,

Acting Regional Director, Alaska Region.

[FR Doc. 97–33543 Filed 12–23–97; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development One Hundred and Twenty-Fifth Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and twenty-fifth meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 9 a.m. to 5 p.m. on February 9, and from 9 a.m. to 12:15 p.m. on February 10, 1998, both days, at the Pan-American Health Organization, located at 525 23rd Street NW., Washington, DC 20523, in Conference Room B.

As part of its two-day agenda, Board members will discuss the Food Aid Code of Conduct; enhancing interactions and information exchange among key groups such as the private sector and universities; and the involvement of the USDA's Agriculture Research Service in USAID's activities. It will also receive an update from the Board's task force reviewing the Collaborative Research Support Program guidelines.

The meeting is open to the public. Any interested person may attend the meeting, may file written statements with the Committee before or after the meeting, or present any oral statements in accordance with procedures established by the Committee, to the extent that time available for the meeting permits.

Those wishing to attend the meeting should contact Mr. George Like at the Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue NW., Room 2.11–072, Washington, DC 20523–2110, telephone (202) 712–1436, fax (202) 216–3010 or internet [glike@usaid.gov] with your full name.

Anyone wishing to obtain additional information about BIFAD should

contact Mr. Tracy Atwood the Designated Federal Officer for BIFAD. Write him in care of the Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue NW., Room 2.11–005, Washington, DC 20523–2110, telephone him at (2020 712–5571, or fax (202) 216–3010.

Tracy Atwood,

AID Designated Federal Officer (Chief, Food Policy Division, Office of Agriculture and Food Security, Economic Growth Center, Bureau of Global Programs).

[FR Doc. 97–33523 Filed 12–23–97; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 753–TA–34]

Extruded Rubber Thread From Malaysia

AGENCY: United States International Trade Commission.

ACTION: Initiation and scheduling of a countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the initiation of countervailing duty investigation No. 753–TA–34 under section 753(a) of the Tariff Act of 1930 (19 U.S.C. 1675b(a)) (the Act) to determine whether an industry in the United States is likely to be materially injured by reason of imports from Malaysia of extruded rubber thread, provided for in subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States, if the countervailing duty order on such merchandise is revoked.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207 (19 CFR part 207).

EFFECTIVE DATE: December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 753(a) of the Act provides that, in the case of a countervailing duty order issued under section 303 of the Act with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time the order was issued, interested parties may request that the Commission initiate an investigation to determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked. Such a request concerning the countervailing duty order on extruded rubber thread from Malaysia was filed on June 30, 1995, by North American Rubber Thread, Fall River, MA.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. Copies of draft questionnaires will be sent for comment to parties who filed an entry of appearance by January 16, 1998.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than 21 days prior to the hearing date specified in this notice. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on April 10, 1998, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 5, 1998, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 27, 1998. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 29, 1998, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 17, 1998. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 12, 1998; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 12, 1998. On June 4, 1998, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 8, 1998, but such final comments must not contain new factual information and must otherwise comply with section

207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.46 of the Commission's rules.

Issued: December 16, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–33596 Filed 12–23–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities; Revision of a Current Approved Information Collection; Comment Request

ACTION: Notice of information collection under review; Application for Registration (DEA Form 363) and Application for Registration Renewal (DEA Form 363a).

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 7, 1997 at 62 FR 36306, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comments until January 23, 1998.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: DOJ Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of the Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* Application for Registration (DEA Form 363) and Application for Registration Renewal (DEA Form 363a).

3. *Agency form number:* DEA Form 363, DEA Form 363a; Applicable component of the Department of Justice sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration; Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government, Other: Business or other for-profit and not-for-profit institutions.

Practitioners who dispense narcotic drugs to individuals for maintenance of detoxification treatment must register with the DEA under the Narcotic Addict Treatment Act of 1974. Registration is needed for control measures and is used to prevent diversion.

These revisions of the forms will not add any burden to the affected public. The subject forms are being revised to provide the ability to use an Optical Character Reader (OCR) for form processing and to provide for registrants' Social Security Number and/or Tax Identification Number. The OCR will enable DEA to increase efficiency and accelerate processing of registrant applications. Social Security Number and/or Tax Identification Numbers are requested to correctly identify registrants, to expedite application processing, database integration and telephone system upgrades.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,197 respondents at 1 response per year at 30 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 599 annual burden hours.

Public comments on this proposed information collection is strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: December 18, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–33570 Filed 12–24–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Revision of a Current Approved Information Collection: Comment Request

ACTION: Notice of information collection under review; Application for Registration (DEA Form 225) and Application for Registration Renewal (DEA Form 225a).

Office of Management and Budget approval is being sought is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 7, 1997 at 62 FR 36306, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comments until January 23, 1998.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the

Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: DOJ Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of the Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* Application for Registration (DEA Form 225) and Application for Registration Renewal (DEA Form 225a).

3. *Agency form number:* DEA Fort 225, DEA Form 225a; Applicable component of the Department of Justice sponsoring the collection; Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit, Other: individuals or households, Not-for-profit institutions and State, Local or Tribal Government.

The Controlled Substances Act requires all firms and individuals who manufacture, distribute, import, export, conduct research or dispense controlled substances to register with DEA. Registration provides a closed system of distribution to control the flow of controlled substances through the distribution chain.

These revisions of the forms will not add any burden to the affected public. The subject forms are being revised to provide the ability to use an Optical Character Reader (OCR) for form processing and to provide for registrants Social Security Number and/or Tax Identification Number. The OCR will enable DEA to increase efficiency and accelerate processing of registrant applications. Social Security Number and/or Tax Identification Numbers are requested to correctly identify registrants, to expedite application processing, database integration and telephone system upgrades.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,000 respondents at 1 response per year at 30 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual burden hours.

Public comments on this proposed information collection is strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: December 18, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–33571 Filed 12–23–97; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities; Revision of a Current Approved Information Collection: Comment Request

ACTION: Notice of information collection under review; Application for Registration (DEA Form 224) and Application for Registration Renewal (DEA Form 224a).

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 7, 1997 at 62 FR 36306, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comments until January 23, 1998.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention DOJ Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of the Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* Application for Registration (DEA Form 224) and Application for Registration Renewal (DEA Form 224a).

3. *Agency form number:* DEA Form 224, DEA Form 224a; Applicable component of the Department of Justice sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit, Other: individuals or households, Not-for-profit institutions and State, Local or Tribal Government.

All firms and individuals who distribute or dispense controlled substances must register with the DEA under the Controlled Substances Act. Registration is needed for control measures over legal handlers of controlled substances and is used to monitor their activities.

These revisions of the forms will not add any burden to the affected public. The subject forms are being revised to provide the ability to use an Optical Character Reader (OCR) for form processing and to provide for registrants Social Security Number and/or Tax Identification Number. The OCR will enable DEA to increase efficiency and accelerate processing of registrant applications. Social Security Number and/or Tax Identification Numbers are requested to correctly identify registrants, to expedite application processing, database integration and telephone system upgrades.

5. *An estimate of the total number of respondents and the amounts of time estimated for an average respondent to respond:* 355,000 respondents at 1 response per year at 12 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 71,000 annual burden hours.

Public comments on this proposed information collection are strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: December 18, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–33572 Filed 12–23–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review: Prison Population Reports Midyear Population Counts and Advance Year-end Population Counts—National Prisoner Statistics 1997.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date listed at the top of this page in the **Federal Register**. This process is in accordance with the Paperwork Reduction Act of 1995.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Dr. Jan M. Chaiken, Director, Bureau of Justice Statistics, 810 Seventh St. NW, Washington, D.C. 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact James Stephan at (202) 616–3289, or via facsimile at 202–307–1463.

Overview of this information collection:

(1) Type of information collection. Revision of currently approved collection.

(2) The title of the Form/Collection: Prison Population Reports Midyear Counts; and Prison Population Report Advance Year-end Counts—National Prisoner Statistics 1997.

(3) The agency form number and the applicable component of the Department sponsoring the collection. Form: NPS–1A; and NPS–1B. Corrections Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: State Departments of Corrections. Others: The Federal Bureau of Prisons. For the NPS–1A form, 52 central reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories:

(a) As of June 30, 1996 and June 30, 1997, the number of male and female inmates under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates; and

(b) As of June 30, 1996 and June 30, 1997, the number of male and female inmates in their custody with maximum sentences of more than one year, one year or less; and unsentenced inmates.

For the NPS–1B form, 52 central reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories:

(a) As of December 31, 1996 and December 31, 1997, the number of male and female inmates under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates;

(b) The number of inmates housed in county or other local authority correctional facilities, or in other state or Federal facilities on December 31, 1997 solely to ease prison crowding;

(c) As of the direct result of state prison crowding during 1997, the number of inmates released via court order, administrative procedure or statute, accelerated release, sentence reduction, emergency release, or other expedited release; and

(d) The aggregate rated, operational, and design capacities, by sex, of each State's correctional facilities at year-end 1997.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to respond: 52 respondents each taking an average 2.5 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: 130 annual burden hours.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW Washington, DC 20530.

Dated: December 18, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–33604 Filed 12–23–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 19, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen (202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), on or before January 23, 1998.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau Labor Statistics.

Title: Construction Industry Benefits Test.

OMB Number: 1220–New.

Frequency: Annually.

Affected Public: Business or other for-profit.

Fiscal year average	Number of respondents per year	Responses per year	Total response per year	Average minutes per response	Total burden hours
BLS 3038A	550	1	468	75	585
BLS 3038B	550	1	468	35	273
BLS 3038D	550	1	468	180	1,404
Quality Assurance	117	1	117	10	20
Average Annual Burden	550	1	468	293	2,282

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Employment Standard Administration (ESA) and the Bureau of Labor Statistics (BLS) Office of Compensation and Working Conditions intend to test the availability and feasibility of collection and publication of benefit incidence and cost for specific construction occupations in local areas. The purpose is to provide ESA with an alternative method for arriving at determinations as stipulated by the Davis-Bacon Act.

Agency: Occupational Safety and Health Administration.

Title: Lead in General Industry (29 CFR Part 1910.1025).

OMB Number: 1218–0092 (extension).

Frequency: On Occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 50,031.

Estimated Time Per Respondent: Time per response ranges from 5 minutes to maintain records to 2 hours for employees to have medical exams.

Total Burden Hours: 1,623,945.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $4,699,000.

Description: The purpose of this standard and its information collection is designed to provide protection from the adverse health effects associated with occupational exposure to lead. The standard requires employers to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 97–33565 Filed 12–23–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1998 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments the proposed revision of the

''International Price Program—U.S. Export Price Indexes''.

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 23, 1998.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, D.C. 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Export Price Indexes, produced continuously by the Bureau of Labor Statistics' International Price Program (IPP) since 1971, measure price change over time for all categories of exported products, as well as many services. The Office of Management and Budget has listed the Export Price Indexes as a major economic indicator since 1982.

The indexes are widely used in both the public and private sectors. The primary public sector use is deflation of the U.S. Trade statistics and the Gross Domestic Product; the indexes also are used in formulating U.S. trade policy and in trade negotiations with other countries. In the private sector, uses of the Export Price Indexes include market analysis, inflation forecasting, contract escalation, and replacement cost accounting.

The International Price Program indexes are viewed as a sensitive indicator of the economic environment. The Department of Commerce uses the monthly statistics to produce monthly and quarterly estimates of inflation-adjusted trade flows. Without continuation of data collection, it would be extremely difficult to construct accurate estimates of the U.S. Gross Domestic Product. In addition, Federal policy-makers in the Department of the Treasury, the Council of Economic Advisors, and the Federal Reserve Board utilize these statistics on a regular basis to improve these agencies' formulation and evaluation of monetary and fiscal policy, and evaluation of the general business environment.

II. Current Actions

The IPP continues to modernize data collection and processing to permit more timely release of its indexes and to reduce reporter burden. The IPP is using the telephone rather than personal visits for new item initiation in limited situations. We believe that initiation by telephone reduces reporting burden with no loss in response. Other potential initiation techniques to reduce burden being reviewed includes less frequent sampling of more stable item areas, use of broader item areas in certain cases, and retention of items initiated in previous samples. To reduce the time required for processing new items, direct entry of initiation data from the field will be tested. Also, for repricing, the use of fax telephone lines to permit direct collection and entry into our database is being considered. In addition, use of the Internet for monthly repricing is being reviewed, contingent upon the resolution of questions relating to the security of the data.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: International Price Program/U.S. Export Product Information.

OMB Number: 1220–0025.

Affected Public: Business or other for-profit.

Form	Total respondents	Frequency	Total annual responses	Average time per response (hours)	Estimated total burden (hours)
Form 2894B	1613	Annually	1,613	.75	1,210
Form 3008B	1613	Annually	1,613	.25	403.25
Form 3007D	3235	Monthly, quarterly	38,540	.53	20,426.2
Total	4848		41,766		22,039

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 18th day of December, 1997.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 97–33564 Filed 12–23–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of fee adjustments.

SUMMARY: This notice revises MSHA's user fees for testing, evaluation, and approval of certain products manufactured for use in underground mines. These fees are based on fiscal

year 1997 data and reflect changes in approval processing operations as well as costs incurred to process approval actions.

DATES: These fee schedules are effective from January 1, 1998 through December 31, 1998. Approval applications postmarked before January 1, 1998 will be chargeable under the fee schedules as published on December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Steven J. Luzik, Chief, Approval and Certification Center, R.R. 1, Box 251, Triadelphia, West Virginia 26059, (304) 547–2029 or (304) 547–0400.

SUPPLEMENTARY INFORMATION: In general, MSHA has computed the revised fees based on the cost to the government to provide testing, evaluation, and approval of products manufactured for use in underground mines. On May 8, 1987 (52 FR 17506), MSHA published a final rule, 30 CFR Part 5—Fees for Testing, Evaluation, and Approval of Mining Products, which established the specific procedures for fee calculation, administration, and revisions. This revised fee schedule is established in accordance with the procedures of that rule.

For a majority of the services provided by A&CC, fees are charged on an hourly basis. The hourly rates are recalculated each year and published in the **Federal Register**. This calculation involves an assessment of the direct and indirect costs associated with the services performed. Direct costs are based on current compensation and benefit costs for technical and support personnel directly involved in providing the services. Indirect costs are based on a proportionate share of the cost of activities which support the approval service, including management and administration of the A&CC, facility operating costs and amortization and depreciation of facilities and equipment. Indirect costs have been applied uniformly in computing the hourly rates for the various services provided.

Direct costs, however, have been separately computed for each product approval program. This has resulted in the inclusion of over 100 different fee categories being published in the annual **Federal Register** notice. The intent of this breakdown has been to establish hourly rates which reflect as accurately as possible the actual cost of performing services by product type.

Experience has shown that since 1987, the year in which 30 CFR Part 5 was promulgated, there has been a relatively small range of difference in the separately computed direct costs for each product approval program. The result has been the annual publication of an unnecessarily complicated listing of separate hourly rates with relatively little variation. This has undoubtedly created confusion and frustration for those mining product manufacturers who submit requests for A&CC services under more than one product category.

A&CC is simplifying the computation of direct costs for 1998 so as to produce a uniform hourly rate across all of the product approval categories. This has been accomplished by simply calculating a weighted average direct cost for all the services provided by A&CC in the processing of requests for testing, evaluation and approval of mining products. The result is a single hourly rate which is now uniformly applied regardless of product type.

Programs that were previously administered using a flat rate billing convention will remain in the schedule as such. See the schedule for the appropriate flat/hourly rates.

Dated: December 18, 1997.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

FEE SCHEDULE EFFECTIVE JANUARY 1, 1998

[(Based on FY 1997 data]

	Action Title	Hourly Rate	Flat Rate
	Testing, Evaluation, and Approval of all products	$59	
	30 CFR PART 15—EXPLOSIVES		
12	Approval Evaluation [1]	59	
	Permissibility Tests for Explosives:		
	Weigh-in		462
	Physical Exam: First size		325
	Chemical Analysis		1,977
	Air Gap—Minimum Product Firing Temperature		460
	Air Gap—Room Temperature		352
	Pendulum Friction Test		163
	Detonation Rate		352
	Gallery Test 7		7,436
	Gallery Test 8		5,533
	Toxic Gases (Large Chamber)		805
	Permissibility Tests for Sheathed Explosives:		
	Physical Examination		128
	Chemical Analysis		1,044
	Gallery Test 9		1,944
	Gallery Test 10		1,944
	Gallery Test 11		1,944
	Gallery Test 12		1,944
	Drop Test		648
	Temperature Effects/Detonation		672
	Toxic Gases		580
14	Approval Extension	59	
15	Statement of Test and Evaluation (ST&E)		54
17	Statement of Test and Evaluation (ST&E) Extension		54
20	Stamped Revision Acceptance (SRA)[2]		403
23	Field Approval		103
29	Dust Collector Approval with Cert. of Performance		297
40	Stamped Notification Acceptance Program (SNAP)		443
40	Stamped Notification Acceptance Program (SNAP) ST&E		33
47	Permit—Extension of Time		276
52	Mine Wide Monitoring System (MWMS) Barrier Classification		87

FEE SCHEDULE EFFECTIVE JANUARY 1, 1998—Continued

[(Based on FY 1997 data]

Action Title	Hourly Rate	Flat Rate
00 Retesting for Approval as a Result of Post-Approval Product Audit [3]	.....	.....

[1] Full approval fee consists of evaluation cost plus applicable test costs.
[2] Fee covers SRA application accompanied by up to five documents.
[3] Fee based upon the approval schedule in effect at the time of retest.
Note: When testing and evaluation are required at locations other than MSHA's premises, the applicant shall reimburse MSHA for traveling, subsistence, and incidental expenses of MSHA's representation in accordance with standardized government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

[FR Doc. 97–33584 Filed 12–23–97; 8:45 am]
BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

Docket No. 50–354

Atlantic City Electric Company (Hope Creek Generating Station); Order Approving Application Regarding Merger Agreement Between Atlantic Energy, Inc. (Parent of Atlantic City Electric Company) and Delmarva Power and Light Company

I

Atlantic City Electric Company (ACE) and Public Service Electric and Gas Company (PSE&G) are co-holders of Facility Operating License No. NPF–57, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50) for operation of the Hope Creek Generating Station (Hope Creek). Under the license, PSE&G is authorized to possess, use, and operate the facility, and ACE is authorized to possess the facility. Hope Creek is located in Salem County, New Jersey.

II

By application filed by ACE under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, attorney for ACE, supplemented by letter dated November 7, 1997, ACE requested the Commission's approval, pursuant to 10 CFR 50.80, of the indirect transfer of the license, to the extent held by ACE, that would result from the consummation of a merger agreement between Atlantic Energy, Inc. (parent of ACE) and Delmarva Power and Light Company (DP&L). Under the merger agreement, Atlantic Energy, Inc. and DP&L would form a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. No direct transfer of the license would occur. PSE&G is not involved in the merger.

A Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring was published in the **Federal Register** on December 8, 1997 (62 FR 64600), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on December 8, 1997 (62 FR 64603).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the letter and application of April 30, 1997, and supplement dated November 7, 1997, the NRC staff has determined that the proposed merger of Atlantic Energy, Inc. and DP&L will not affect the qualifications of ACE as a holder of the license, and that the transfer of control of the license for Hope Creek, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions stated herein. These findings are supported by a safety evaluation dated December 18, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, it is hereby ordered that the Commission approves the application regarding the proposed merger of Atlantic Energy, Inc. and DP&L subject to the following conditions: (1) ACE shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from ACE to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of ACE's consolidated net utility plant, as recorded on ACE's books of account; and (2) should the merger of Atlantic Energy, Inc. and DP&L, as described herein, not be completed by December 31, 1998, this Order shall become null and void, provided, however, on application and for good cause shown, such date is extended.

This Order is effective upon issuance.

IV

By January 23, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC by the above date. Copies should be also sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John H. O'Neill, Jr., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC, 20037, attorney for ACE.

For further details with respect to this action, see the application filed by ACE under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, as supplemented by a letter dated November 7, 1997, and the safety evaluation dated December 18, 1997, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room

at the Pennsville Public Library, 190 South Broadway, Pennsville, NJ.

Dated at Rockville, Maryland, this 18th day of December 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–33546 Filed 12–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Atlantic City Electric Company Delmarva Power and Light Company (Peach Bottom Atomic Power Station, Units 2 and 3); Order Approving Application Regarding Merger Agreement Between Atlantic Energy, Inc. (Parent of Atlantic City Electric Company) and Delmarva Power and Light Company

I

Atlantic City Electric Company (ACE) and Delmarva Power and Light Company (DP&L) are co-holders of Facility Operating Licenses Nos. DPR–44 and DPR–56, along with Public Service Electric and Gas Company (PSE&G) and PECO Energy Company, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50) for operation of the Peach Bottom Atomic Power Station, Units 2 and 3 (PBAPS). Under the licenses, PECO Energy Company is authorized to possess, use, and operate the facilities, and ACE, DP&L, and PSE&G are authorized to possess the facilities. PBAPS is located in York County, Pennsylvania.

II

By application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, attorney for ACE and DP&L, supplemented by letter dated November 7, 1997, ACE and DP&L requested the Commission's approval, pursuant to 10 CFR 50.80, of the indirect transfer of the licenses, to the extent held by ACE and DP&L, that would result from the consummation of a merger agreement between Atlantic Energy, Inc. (parent of ACE) and DP&L. Under the merger agreement, Atlantic Energy, Inc. and DP&L would form a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. No direct transfer of the licenses would occur. PSE&G and PECO Energy Company are not involved in the merger.

A Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring was published in the **Federal Register** on December 8, 1997 (62 FR 64601), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on December 8, 1997 (62 FR 64601).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the letter and application of April 30, 1997, and supplement dated November 7, 1997, the NRC staff has determined that the proposed merger of Atlantic Energy, Inc. and DP&L will not affect the qualifications of ACE and DP&L as holders of the licenses, and that the transfer of control of the licenses for PBAPS, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions stated herein. These findings are supported by a safety evaluation dated December 18, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, *It is hereby ordered* that the Commission approves the application regarding the proposed merger of Atlantic Energy, Inc. and DP&L subject to the following conditions: (1) ACE shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from ACE to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of ACE's consolidated net utility plant, as recorded on ACE's books of account; (2) DP&L shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from DP&L to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of DP&L's consolidated net utility plant, as recorded on DP&L's books of account; and (3) should the merger of Atlantic Energy, Inc. and DP&L, as described herein, not be completed by December 31, 1998, this Order shall become null and void, provided, however, on application and for good cause shown, such date is extended.

This Order is effective upon issuance.

IV

By January 23, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC by the above date. Copies should be also sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John H. O'Neill, Jr., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC, 20037, attorney for ACE and DP&L.

For further details with respect to this action, see the application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, as supplemented by a letter dated November 7, 1997, and the safety evaluation dated December 18, 1997, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room in the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania.

Dated at Rockville, Maryland, this 18th day of December 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–33547 Filed 12–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

Atlantic City Electric Company Delmarva Power and Light Company (Salem Nuclear Generating Station, Units 1 and 2); Order Approving Application Regarding Merger Agreement Between Atlantic Energy, Inc. (Parent of Atlantic City Electric Company) and Delmarva Power and Light Company

I

Atlantic City Electric Company (ACE) and Delmarva Power and Light Company (DP&L) are co-holders of Facility Operating Licenses Nos. DPR–70 and DPR–75, along with Public Service Electric and Gas Company (PSE&G) and Philadelphia Electric Company [also known as PECO Energy Company], issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50), for operation of the Salem Nuclear Generating Station, Units 1 and 2 (Salem). Under the licenses, PSE&G is authorized to possess, use, and operate the facilities, and ACE, DP&L, and Philadelphia Electric Company are authorized to possess the facilities. Salem is located in Salem County, New Jersey.

II

By application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, attorney for ACE and DP&L, supplemented by letter dated November 7, 1997, ACE and DP&L requested the Commission's approval, pursuant to 10 CFR 50.80, of the indirect transfer of the licenses, to the extent held by ACE and DP&L, that would result from the consummation of a merger agreement between Atlantic Energy, Inc. (parent of ACE), and DP&L. Under the merger agreement, Atlantic Energy, Inc. and DP&L would form a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. No direct transfer of the licenses would occur. PSE&G and Philadelphia Electric Company are not involved in the merger.

A Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring was published in the **Federal Register** on December 8, 1997 (62 FR 64600), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on December 8, 1997 (62 FR 64602).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the letter and application of April 30, 1997, and supplement dated November 7, 1997, the NRC staff has determined that the proposed merger of Atlantic Energy, Inc. and DP&L will not affect the qualifications of ACE and DP&L as holders of the licenses, and that the transfer of control of the licenses for Salem, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions stated herein. These findings are supported by a safety evaluation dated December 18, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, *It is hereby ordered* that the Commission approves the application regarding the proposed merger of Atlantic Energy, Inc. and DP&L subject to the following conditions: (1) ACE shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from ACE to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of ACE's consolidated net utility plant, as recorded on ACE's books of account; (2) DP&L shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from DP&L to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of DP&L's consolidated net utility plant, as recorded on DP&L's books of account; and (3) should the merger of Atlantic Energy, Inc. and DP&L, as described herein, not be completed by December 31, 1998, this Order shall become null and void, provided, however, on application and for good cause shown, such date is extended.

This Order is effective upon issuance.

IV

By January 23, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, D.C. by the above date. Copies should be also sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John H. O'Neill, Jr., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC, 20037, attorney for ACE and DP&L.

For further details with respect to this action, see the application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, as supplemented by a letter dated November 7, 1997, and the safety evaluation dated December 18, 1997, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, NJ.

Dated at Rockville, Maryland, this 18th day of December 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director Office of Nuclear Reactor Regulation.

[FR Doc. 97–33548 Filed 12–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–31373–CivP; ASLBP No. 98–735–01–CivP; EA 97–207]

Atomic Safety and Licensing Board; In the Matter of Conam Inspection, Inc., Itasca, Illinois (License No. 12–16559–01), Order Imposing Civil Monetary Penalty; Notice of Hearing

December 18, 1997.

Notice is hereby given that, by Memorandum and Order (Granting Request for Hearing and Scheduling Prehearing Conference), dated December 17, 1997, the Atomic Safety and Licensing Board has granted the request of Conam Inspection, Inc. (Conam or Licensee), for a hearing in the above-titled proceeding. The hearing concerns the Order Imposing a Civil Monetary Penalty in the amount of $16,000, issued by the NRC Staff on November 5, 1997 (published at 62 FR 60923 (November 13, 1997)). The parties to the proceeding are Conam and the NRC Staff. The issues to be considered at the hearing are (a) whether the Licensee was in violation of the Commission's requirements as set forth in Violations I.B and I.C of the Notice of Violation and Proposed Imposition of Civil Penalty (NOV), dated June 9, 1997; and (b) whether, on the basis of such violations and the additional violations set forth in the NOV that the Licensee admitted, the Order Imposing a Civil Monetary Penalty should be sustained.

Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L St. N.W., Washington, D.C. 20555, and at the Commission's Region III Office, 801 Warrenville Road, Lisle, Illinois 60532–4351.

During the course of this proceeding, the Licensing Board, as necessary, will conduct one or more prehearing conferences and evidentiary hearing sessions. The time and place of these sessions will be announced in Licensing Board Orders. The first prehearing conference is scheduled for January 14, 1998, and is to be conducted through a telephone conference call. Except for conferences conducted by telephone conference calls (which are in any event to be transcribed), members of the public are invited to attend any such sessions.

Dated: December 18, 1997 at Rockville, Maryland.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

0Chairman Administrative Judge.

[FR Doc. 97–33551 Filed 12–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Fire Protection; Notice of Meeting

The ACRS Subcommittee on Fire Protection will hold a meeting on January 22, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, January 22, 1998–8:30 a.m. until the conclusion of business.

The Subcommittee will review the staff's schedule and status for the development of the proposed Fire Protection Rule. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: December 17, 1997.

Gail H. Marcus,

Acting Deputy Executive Director.

[FR Doc. 97–33552 Filed 12–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Human Factors; Revised

The meeting of the ACRS Subcommittee on Human Factors scheduled to be held on January 20, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland *has been rescheduled for Wednesday, January 21, 1998, 8:30 a.m. until 5:00 p.m.* Notice of this meeting was previously published in the **Federal Register** on Tuesday, December 16, 1997. (62 FR 65824). All other items pertaining to this meeting remain the same as previously published.

For further information please contact the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: December 17, 1997.

Gail H. Marcus,

Acting Deputy Executive Director.

[FR Doc. 97–33553 Filed 12–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–08968]

Hydro Resources, Inc.; Issuance of the Safety Evaluation Report for the Crownpoint Uranium Solution Mining Project, Crownpoint, NM

AGENCY: Nuclear Regulatory Commission.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has issued its Safety Evaluation Report (SER), dated December 1997, for Hydro Resources, Inc.'s (HRI's) proposed Crownpoint Uranium Solution Mining Project at Crownpoint, NM. The SER documents the NRC staff's safety review of the project. The SER and the Crownpoint

Uranium Mining Project Final Environmental Impact Statement (FEIS), dated February 1997 (NUREG–1508), provide the basis for NRC's decision to issue a 10 CFR Part 40 source material license to HRI. The staff will issue a license to HRI 30 days from issuance of the SER. The license will authorize HRI to construct and operate in situ leach (ISL) mining facilities at the Crownpoint Project for a period of five years. In preparing the SER, the NRC staff reviewed HRI's license application submittals and its Consolidated Operations Plan, Revision 2.0 (dated August 15, 1997), against the applicable regulations in 10 CFR parts 19, 20, 40, and 71. The SER supports the NRC staff's finding that issuing the license to HRI will be in accordance with the aforementioned regulations, and with all applicable safety requirements of the Atomic Energy Act of 1954 (AEA), as amended.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Carlson of the Uranium Recovery Branch, Mail Stop TWFN 7–J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 415–8165; e-mail RDC@NRC.GOV.

SUPPLEMENTARY INFORMATION: On April 25, 1998, HRI submitted an application to NRC proposing to construct and operate an ISL uranium mining facility in McKinley County, near Church Rock, New Mexico. HRI later amended its application to include additional ISL operations in McKinley County, near an area of land referred to as Unit 1, and Crownpoint, NM. Together, the three sites comprise HRI's Crownpoint Uranium Solution Mining Project.

The NRC staff's environmental review of the Crownpoint Project is documented in the FEIS, pursuant to CFR Part 51. The NRC staff concluded that HRI's proposed Crownpoint Project was environmentally acceptable, and that potential impacts of the proposed project could be mitigated. These mitigative measures will be enumerated as conditions in HRI's source materials license. Additionally, the NRC staff completed its safety evaluation of the Crownpoint Project and documented its review in the SER. Based on its review, the NRC staff concluded that issuance of a source material license, with certain conditions specified in the license, would not be inimical to the common defense and security or to the public's health and safety, and otherwise meets the requirements of 10 CFR parts 19, 20, 40, and 71, and the AEA. The NRC staff's conclusions in the FEIS and SER provide the bases for NRC's decision to tissue a source material license to HRI 30 days from issuance of the SER.

Dated at Rockville, Maryland, this 4th day of December 1997.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–33549 Filed 12–23–97; 8:45 am]

BILLING CODE 2590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Notice of Meeting

Board Meeting: January 20 (beginning at 1 p.m.) & 21, 1998—Amargosa Valley, Nevada: Department of Energy (DOE) program update, public input to the Nuclear Waste Technical Review Board, the DOE thermal testing program, saturated zone hydrology, and the saturated zone expert elicitation project.

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board will hold its winter meeting on Tuesday and Wednesday, January 20–21, 1998, in Amargosa Valley, Nevada. The meeting, which is open to the public, will be held at the Longstreet Inn and Casino, HCR 70, Box 559, Amargosa Valley, Nevada 89020; Tel (702) 372–1777; Fax (702) 372–1280.

The meeting will include an update on the DOE's nuclear waste management program and activities at Yucca Mountain, Nevada, and sessions on the DOE's thermal testing program, saturated zone flow and transport modeling, and the saturated zone expert elicitation project. A session also will be held concerning the board's activities under the Government Performance and Results Act (GPRA). A detailed agenda will be available approximately two weeks prior to the meeting by fax or e-mail, or at the Board's website, www.nwtrb.gov.

In 1993, the Congress passed the Government Performance and Results Act, intending to improve confidence in government by holding agencies accountable for activities that affect taxpayers lives. The law requires every federal agency to develop a strategic plan, including the critical component of a statement addressing how the agency plans to conduct itself while carrying out its mission. During the GPRA session at the winter meeting in Amargosa Valley, Nevada, the Board would like to solicit comments from the public concerning the Board's value statement, which follows.

The Board takes very seriously its role as a major source of technical and scientific peer review of the nation's program to package, transport, and dispose of high-level radioactive waste and spent nuclear fuel. To that end, the Board will:

- Ensure Board practices and procedures are conducted with integrity and objectivity that are beyond reproach.
- Produce timely, complete, comprehensive, and thoughtful scientific and techical analyses.
- Communicate the Board's findings and recommendations at least twice a year clearly, and in a timely manner that is most beneficial to the Congress, the Department of Energy, and the public.
- Ensure the Board's findings and recommendations are based on current and accurate information.
- Ensure the Board conducts itself in an open and accessible manner.

The Board will ask those present to answer three questions:

1. Does the Board conduct its meetings in an open, objective, and fair manner? For example, are members of the public treated with respect and consideration when participating in the meetings?

2. Given the technical and often detailed nature of the Board's work, does the Board explain its major points and positions in reports and letters so that they are understandable? For example, is there a general understanding of the reasons for the Board's recommendation to construct an east-west crossing of the potential repository block at Yucca Mountain?

3. Most important, to what extent is the Board a credible source of scientific and technical advice to the Department of Energy and the Congress? In general, what is the basis for your opinion?

In responding to these questions, those present will be asked to keep in mind that the scope of the Board's work is defined specifically in federal law. That law, P.L. 100–203, December 22, 1987, mandates that the Board is to evaluate the scientific and technical work of the Department of Energy in its commercial nuclear waste disposal program, including waste packaging and transportation activities.

Time has been set aside for oral comments from the public on these issues. Depending on the number of speakers, time limits may have to be imposed. Preprinted comment sheets will be available at the meeting for use in submitting written comments.

Also, additional time has been set aside on both days for the public to

comment on the technical issues raised during the meeting. Those wishing to speak are encouraged to sign the Public Comment Register at the check-in table. A time limit may have to be set on the length of individual remarks; however, written comments of any length may be submitted for the record.

Transcripts of this meeting will be available via e-mail, on computer disk, or on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning February 18, 1998. For further information, contact Frank Randall, External Affairs, 2300 Clarendon Boulevard, Suite 1300, Arlington, Virginia 22201–3367; (Tel) 703–235–4473; (Fax) 703–235–4495; (E-mail) info@nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's commercial spent nuclear fuel and defense high-level waste. In the same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for the disposal of that waste.

Dated: December 19, 1997.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 97–33569 Filed 12–23–97; 8:45 am]

BILLING CODE 6820–AM–M

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Notice of Termination for Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Notice of Termination for Multiemployer Plans (29 CFR Part 4041A Subpart B) (OMB control number 1212–0020; expires March 31, 1998). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by February 23, 1998.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Section 4041A(f)(2) of the Employee Retirement Income Security Act of 1974 (''ERISA'') gives the PBGC authority to prescribe reporting requirements for terminated multiemployer pension plans covered by Title IV of ERISA.

The PBGC's regulation on Notice of Termination for Multiemployer Plans (29 CFR Part 4041A Subpart B) requires the filing of a notice of termination with the PBGC by a multiemployer plan that has terminated either by plan amendment or by mass withdrawal. The notice must contain certain basic information such as the plan's identity, the date of termination, and the plan's most recent Form 5500. In addition, a plan that has terminated by mass withdrawal must supply certain financial information to enable the PBGC to assess the likelihood of benefit reductions or suspensions under the plan and the need for PBGC financial assistance to the plan. More information is required with respect to mass withdrawal terminations because the risk of plan insolvency is greater in these cases. (The regulation may be accessed on the PBGC's home page at http://www.pbgc.gov.)

The collection of information under the regulation has been approved by OMB under control number 1212–0020 through March 31, 1998. The PBGC intends to request that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The PBGC estimates that the total annual hour burden of the regulation is one hour and that the total annual cost burden is $34,125.

The PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, this 18th day of December, 1997.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–33576 Filed 12–23–97; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Extension of Special Withdrawal Liability Rules

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB control number 1212–0023; expires March 31, 1998). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by February 23, 1998.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written

comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: Sections 4203(f) and 4208(e)(3) of the Employee Retirement Income Security Act of 1974 (''ERISA'') provide for the PBGC's issuance of regulations under which the PBGC may approve a multiemployer pension plan's adoption of special rules for determining whether a complete or partial withdrawal from the plan has occurred. Section 4203(f) also sets standards for the approval of such special rules.

The PBGC's regulation on Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) requires the plan sponsor of a plan that adopts special rules to submit information about the rules, the plan, and the industry in which the plan operates with its request for PBGC approval of the rules. The PBGC uses that information in determining whether the plan's special withdrawal liability rules meet the requirements of ERISA. (The regulation may be accessed on the PBGC's home page at http://www.pbgc.gov.)

The collection of information under the regulation has been approved by OMB under control number 1212–0023 through March 31, 1998. The PBGC intends to request that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The PBGC estimates that the total annual hour burden of the regulation is one hour and that the total annual cost burden is $2,400.

The PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, DC, this 18th day of December, 1997.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–33577 Filed 12–23–97; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Rule 17a–23 SEC File No. 270–387, OMB Control No. 3235–0442

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17a–23 and Form 17A–23 Recordkeeping and Reporting Requirements Relating to Broker-Dealer Trading Systems

Rule 17a–23 and Form 17A–23 under the Securities Exchange Act of 1935 establish recordkeeping and reporting requirements for approximately 143 registered broker-dealers that operate certain automated trading systems (''Broker-Dealer Trading System'' or ''BDTS''). Rule 17a–23 requires any registered broker-dealer that sponsors a BDTS to maintain participant, volume, and transaction records. Rule 17a–23 and Form 17A–23 also require system sponsors to submit three reports to the Commission and, under certain circumstances, to an appropriate self-regulatory organization. These recordkeeping requirements assist the Commission with monitoring broker-dealers that operate BDTSs and with ensuring compliance with Rule 17a–23.

The Commission staff estimates the average number of hours necessary for each BDTS sponsor to comply with Rule 17a–23 is 46 hours annually. The total burden is 6,542 hours annually for the broker-dealers operating BDTSs, based upon past submissions. The average cost per hour is approximately $7.00. Therefore, the total annual cost of compliance for the 143 broker-dealers operating BDTSs is $46,046.00.

The retention period for the recordkeeping requirement under Rule 17a–23 is three years following the date of a record or notice prepared pursuant to the rule. The recordkeeping requirement under Rule 17a–23 is mandatory to assist the Commission with monitoring broker-dealers that operate BDTSs and with ensuring compliance with the rule. Rule 17a–23 does involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 17, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33585 Filed 12–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549

Extension:
Rule 15c3–3, SEC File No. 270–87, OMB Control No. 3235–0078

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 15c3–3 Customer Protection—Reserves and Custody of Securities

Rule 15c3–3 (''Rule'') requires registered broker-dealers to maintain certain records in connection with their compliance with the Rule's requirements that broker-dealers maintain possession and control of and segregate customer funds and securities. Commission staff estimates that the average number of hours necessary for each broker-dealer to make the required computations pursuant to the Rule is 2.5 hours per response. In order to demonstrate compliance with the Rule, approximately 326 broker-dealers choose to make a weekly computation and 127 broker-dealers choose to make a monthly computation. Accordingly, the total is approximately 48,290 hours annually for all broker-dealers, based upon past submissions. The average cost per hour is approximately $60. Consequently, the staff estimates that the total cost of compliance with the Rule for all broker-dealers is $2,897,400.

The retention period for the recordkeeping requirement under the Rule is three years following the date of a report prepared pursuant to the rule. The recordkeeping requirement under the Rule is mandatory to assist the Commission with monitoring broker-dealers and ensuring compliance with the Rule. The information collected under this Rule is kept confidential to the extent permitted by the Freedom of Information Act and any other applicable law. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 15, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33586 Filed 12–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22947; 812–10890]

Merrill Lynch & Co., Inc., et al.; Notice of Application

December 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the ''Act'') from section 15(a) of the Act.

Summary of Application: Applicants seek an order to permit the implementation, without shareholder approval, of new investment advisory or sub-advisory agreements (''New Agreements'') between Mercury Asset Management International Limited (''MAM International'') and Mercury Asset Management International Channel Islands Ltd. (''MAM Channel Islands'') (collectively, the ''Advisers'') and various registered investment companies (each a ''Fund'' and collectively, the ''Funds'') in connection with the acquisition of Mercury Asset Management Group plc (''Mercury'') by Merrill Lynch & Co., Inc. (''Merrill Lynch''). The order would cover a period of up to 150 days following the later of the date on which the assignment of the existing investment advisory contracts is deemed to have occurred (*i.e.*, the date Merrill Lynch is deemed to control the issued share capital of Mercury (the ''Assignment Date'')) or the date upon which the requested order is issued (but in no event later than July 15, 1998) (the ''Interim Period''). The order also would permit the Advisers to receive all fees earned under the New Agreements during the Interim Period following shareholder approval.

Applicants: Merrill Lynch, Mercury, and the Advisers.

Filing Dates: The application was filed on December 10, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 9, 1998, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Merrill Lynch, World Financial Center, North Tower, 250 Vesey Street, New York, New York 10281–1318; Mercury and MAM International, 33 King William Street, London, England EC4R 9AS; MAM Channel Islands, Forum House, Grenville Street, St. Helier, Jersey JE48RL, Channel Islands.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942–0569, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. Merrill Lynch, through its subsidiaries, provides investment, financing, insurance, and related services on a global basis. Mercury, a holding company whose shares are listed on the London Stock Exchange, provides investment and related services through its subsidiaries on a global basis. The Advisers are investment advisers registered under the Investment Advisers Act of 1940. MAM International provides discretionary international investment portfolio management services to individual and institutional clients. MAM International provides investment advice to its wholly-owned subsidiary, MAM Channel Islands. MAM Channel Islands acts as investment adviser and MAM International acts as sub-adviser for The Europe Fund, Inc. and The United Kingdom Fund Inc., each a management investment company registered under the Act. MAM International also acts as investment sub-adviser to the Global Bond Series of Fortis Series Fund, Inc.,

a management investment company registered under the Act.

2. On November 19, 1997, the boards of directors of Merrill Lynch and Mercury announced that they had agreed on the terms of a recommended cash offer (the ''Offer'') under which Merrill Lynch, through its newly-formed wholly-owned subsidiary, ML Invest plc, would seek to acquire all of the issued share capital of Mercury (the ''Transaction''). Applicants state that, upon completion of the Transaction, it is intended that Mercury will be combined with the worldwide institutional business of Merrill Lynch Asset Management, L.P. and Fund Asset Management, L.P., which are both owned and controlled by Merrill Lynch, to form Merrill Lynch Mercury Asset Management. Applicants expect that all conditions to the Offer, including receipt of all necessary regulatory approvals, will be fulfilled by or after late December 1997.

3. Applicants state that the Transaction could be deemed to result in an assignment of the existing advisory and sub-advisory contracts between the Funds and the Advisers (the ''Existing Agreements'') and, thus, their automatic termination. Applicants request an exemption to permit implementation, prior to obtaining shareholder approval, of the New Agreements. The requested exemption will cover the Interim Period of not more than 150 days beginning on the later of the Assignment Date or the date of the issuance of the requested order and continuing, in respect of each Fund, through the date on which each New Agreement is approved or disapproved by the respective Fund's shareholders, but in no event after July 15, 1998. Applicants represent that, during the Interim Period, the New Agreements will contain identical terms and conditions as the Existing Agreements, except in each case for the names of the parties, effective dates, termination dates, and the escrow provisions.

4. On December 11, 1997, the board of directors of each Fund (the ''Board'') met, in accordance with section 15(c) of the Act, so that they could evaluate whether the terms of the New Agreements, including the escrow provisions, are in the best interests of the Funds and their shareholders. Each of the Boards voted to approve the New Agreements in accordance with section 15(c).

5. Applicants submit that it will not be possible to obtain shareholder approval of New Agreements in accordance with section 15(a) of the Act prior to the Assignment Date. Applicants state the each Fund will promptly schedule a meeting of shareholders to vote on the approval of the New Agreements to be held within 150 days after the commencement of the Interim Period, but in no event later than July 15, 1998.

6. Applicants also request an exemption to permit the Advisers to receive from each Fund all fees earned under the New Agreements during the Interim Period, if an to the extent the New Agreements are approved by the shareholders of each Fund.[1] Applicants state that the fees to be paid during the Interim Period will not be greater than the fees currently paid by the Funds.

7. Applicants propose to enter into escrow arrangements with an unaffiliated financial institution (the ''Escrow Agent''). The advisory fees payable by the Funds under the New Agreements during the Interim Period will be paid into an interest-bearing escrow account. The Escrow Agent will pay the amounts in the escrow account (including interest) to the Advisers only after the New Agreements are approved by the shareholders of the relevant Fund in accordance with section 15(a) of the Act. If shareholder approval is not given, the Escrow Agent will return the moneys to the appropriate Fund. Before any such release is made, the Boards will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it is unlawful for any person to serve as an investment adviser to a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires that the written contract provide for its automatic termination in the event of its ''assignment.'' Section 2(a)(4) of the Act defines the term ''assignment'' to include any direct or indirect transfer of an investment advisory contract by the assignor or a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants state that it is possible that Merrill Lynch may be deemed to have obtained control of more than 25% of the voting securities of Mercury as early as mid-December. Applicants state that they are concerned that if an assignment does exist, the Existing Agreements will terminate by their terms.

3. Rule 15a–4 provides, in pertinent part, that if an investment advisory contract with a registered investment company is terminated by an assignment, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that (as) the new contract is approved by the company's board of directors (including a majority of the non-interested directors); (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (c) neither the adviser not any controlling person of the adviser ''directly or indirectly receive money or other benefit'' in connection with the assignment. Applicants state that because Merrill Lynch, Mercury and/or the Advisers may be deemed to receive a benefit in connection with the Transaction, there is a question as to applicants' ability to rely on rule 15a–4. However, applicants submit that granting the requested exemption would be within the spirit of rule 15a–4.

4. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

5. Applicants note that the terms and the timing of the Transaction were determined by Merrill Lynch and Mercury in response to a number of factors beyond to scope of the Act and substantially unrelated to the Funds or the Advisers. Applicants state that it is not possible for the Funds to obtain shareholder approval of the New Agreements prior to the Assignment Date. Applicants submit that the Boards have approved the New Agreements, and the shareholders of the Funds will be further protected by the establishment of the escrow account described in the application.

6. Applicants submit that the Advisers will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent to the scope

[1] Applicants state that if the Assignment Date precedes issuance of the requested order, the advisers will continue to serve as investment advisers after the Assignment Date (and prior to the issuance of the order) in a manner consistent with their fiduciary duty to continue to provide advisory services to the Funds even though approval of the new arrangements has not yet been secured from the Funds' shareholders. Applicants also state that the Funds may be required to pay, with respect to the period until receipt of the order, no more than the actual out-of-pocket cost to the Advisers for providing advisory services.

and quality of services previously provided. During the Interim Period, the Advisers would operate under the New Agreements, which would have the same terms and conditions as the respective Existing Agreements, except for the effective dates, termination dates and escrow provisions. Applicants believe that the level of service provided by the Advisers will remain the same under the New Agreements as under the existing ones.

7. Applicants believe that the best interests of shareholders of the Funds would be served by allowing for the implementation of the New Agreements during the Interim Period. Applicants state that allowing the implementation of the New Agreements will ensure that there will be no disruption to the investment program and the delivery of related services to the Funds because the personnel that provide such services to the Funds will remain substantially the same as before the Transaction.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreements to be implemented following the commencement of the Interim Period will have the same terms and conditions as the respective Existing Agreements, except for the effective dates, termination dates, and escrow provisions.

2. Fees payable to the Advisers by the Funds for the period covered by the order will be maintained during the Interim Period in an interest-bearing escrow account, and will be paid (1) to the Advisers after the requisite approval by shareholders is obtained, or (b) in the absence of such approval, to the relevant Fund.

3. Each Fund will promptly schedule a meeting of shareholders to vote on approval of the New Agreements to be held within 150 days after the commencement of the Interim Period, but in no event later than July 15, 1998.

4. Merrill Lynch and/or Mercury will pay the costs of preparing and filing the application and the costs relating to the solicitation of approval of the Funds' shareholders of the New Agreements.

5. The Advisers will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the respective Boards, including a majority of the directors who are not ''interested persons'' of the Funds, as defined in section 2(a)(19) of the Act (the ''Disinterested Directors''), to the scope and quality of services previously provided. In the event of any material change in the personnel providing services pursuant to the advisory agreements, the Advisers will apprise and consult with the Boards of the affected Funds in order to assure that the Boards, including a majority of the Disinterested Directors, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33595 Filed 12–23–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39402A; File No. SR–Amex–97–46]

Self-Regulatory Organizations; Notice of Filing and Order Granting Immediate Effectiveness of Proposed Rule Change by American Stock Exchange, Incorporated Relating to the Listing of Commodity Indexed Preferred or Debt Securities

December 17, 1997.

Notice of Corrections

On December 4, 1997 the Securities and Exchange Commission (''SEC'' or ''Commission'') issued a notice of filing and order granting immediate effectiveness of proposed rule change by the American Stock Exchange, Incorporated (''Amex'') relating to the listing of commodity indexed preferred or debt securities [1] pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, as amended (''Act''),[2] and paragraph (e)(6) of Rule 19b–4 under the Act.[3] The following sentence should be deleted from the first paragraph of *Section A—Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change:* ''[T]he Exchange also will require that the issuer have a minimum tangible net worth of $150 million.''

For the Commission, by the Division of Market Regulation, pursaunt to delegated authority.[4]

[1] Securities Exchange Act Release No. 34–39402 (December 4, 1997) 62 FR 65459 (December 12, 1997).

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4(e)(6).

[4] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33525 Filed 12–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39449; File No. SR–MBSCC–97–08]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Electronic Pool Notification Service's Fee Schedule

December 15, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on October 22, 1997, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change consists of modifications to the Electronic Pool Notification (''EPN'') schedule of charges, which is attached as Exhibit A to the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

MBSCC currently assesses message processing fees as reflected in the EPN Schedule of Charges. MBSCC assesses

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by MBSCC.

''On Send'' fees of $.25/million current face from 8:00 a.m. to 1:00 p.m. and $1.25/million current face from 3:00 p.m. to 5:00 p.m. MBSCC also assesses a message processing ''On Receive'' fee of $.50/million current face 8:00 a.m. to 1:00 p.m. MBSCC does not charge a message processing On Receive fee from 3:00 p.m. to 5:00.

On occasion, MBSCC may open the EPN service before 8:00 a.m. or close it after 5:00 p.m. to accommodate the processing needs of its participants.[3] When this happens, MBSCC does not charge higher fees for the additional usage. The proposed rule change codifies this practice by amending the EPN Schedule of Charges to reflect that the ''On Send'' fee will be $.25/million from the opening of business to 1:00 p.m. and $1.25/million from 3:00 p.m. to the close of business. The proposed rule change also amends fees to reflect that the EPN ''On Receive'' fee will be $.50/million from the opening of business to 1:00 p.m. and no charges from 3:00 p.m. to the close of business. As a result, MBSCC's schedule of charges now reflects that message processing fees will not be altered when the normal hours of operation for the EPN service are extended. MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[4] and the rules and regulations thereunder because it will promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[5] and pursuant to Rule 19b–4(e)(1)[6] promulgated thereunder because the proposal constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of existing MBSCC rules. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR–MBSCC–97–08 and should be submitted by January 14, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33527 Filed 12–23–97; 8:45 am]

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[3] Conversation between Richard Paley, Associate Counsel, MBSCC, and Jeffrey Mooney, Attorney, Division of Market Regulation, Commission (November 6, 1997).

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78s(b)(3)(A)(i).

[6] 17 CFR 240.19b–4(e)(1).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39458; File No. SR–NASD–97–87]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Extending the Pilot Injunctive Relief Rule

December 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 8, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulatory is herewith filing a proposed rule change to extend for six months the pilot injunctive relief rule, Rule 10335 (formerly Section 47) of the Code of Arbitration Procedure (''Code'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Regulation's injunctive relief rule, Rule 10335 of the Code, provides a procedure for obtaining injunctive relief in arbitration and for expediting proceedings for injunctive relief in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

intra-industry disputes. Rule 10335 took effect on January 3, 1996, for a one-year pilot period. The initial pilot period was subsequently extended on January 3, 1997 for another year in order to permit NASD Regulation's Office of Dispute Resolution to gain additional experience with the rule before determining whether the rule should be made permanent, the pilot period should be extended, or the rule should be permitted to terminate by its terms.[3]

In September 1997, the NASD published a Notice to Members (97–59) requesting comment on the rule.[4] At that time, approximately 433 cases had been filed in which injunctive relief was sought pursuant to the rule. The average number of days between filing and the arbitrator's initial injunctive relief order was approximately 7.5 days. The majority of cases in which injunctive relief was sought involved associated persons leaving one firm for another. In most but not all cases, the associated person's former firm was the petitioner. The Notice to Members sought comment on how the injunctive relief and expedited proceedings work and how they could be improved, and identified more than twenty specific questions based on previous comments received from users of the rule. The comment period closed on October 31, 1997. The NASD has received 19 comment letters in response to the Notice to Members.[5]

On the basis of NASD Regulation's experience and the comments of the participants, NASD Regulation believes that the procedures set forth in Rule 10335 represent a significant improvement to the procedures for resolving intra-industry disputes. However, NASD Regulation also believes that additional time is necessary to adequately review the comments received about the rule and to evaluate how the Rule could be improved to meet the needs of the participants more effectively.

Accordingly, NASD Regulation is proposing to extend the injunctive relief Rule as a pilot program for another six months. During the next six months NASD Regulation will review the comments received in response to Notice to Members 97–59, as well as comments from arbitrators and NASD employees who have had experience with the application of the rule, and will develop modifications or interpretations of the Rule in response thereto.

The NASD requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. Rule 10335 expires by its terms on January 3, 1998. As discussed above, NASD Regulation believes that Rule 10335 represents a significant improvement to the procedures for resolving intra-industry disputes, and that an extension will permit more careful consideration of modifications in response to comments. Accordingly, NASD Regulation believes that it is in the interest of users of Rule 10335 for the procedures to remain in effect without interruption.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[6] in that extending the effectiveness of the injunctive relief procedures will serve the public interest by enhancing the satisfaction with the arbitration process afforded by expeditious resolution of certain disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–87 and should be submitted by January 14, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change to extend the pilot injunctive relief rule is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and particularly with Section 15A(b)(6) of the Act.[7] Rule 10335 is intended to provide a pilot system within the NASD arbitration forum to process requests for temporary injunctive relief. The Rule is intended principally to facilitate the disposition of employment disputes and related disputes concerning whether registered representatives who move to other firms may transfer their accounts to their new firms. The Commission finds it is appropriate to extend the pilot for six months. During that time the NASD Regulation will be able to evaluate the success of the Rule, to adequately review the comments received, and to determine whether to extend the pilot further or make the Rule permanent.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because members will continue to have the benefit of injunctive relief in arbitration without interruption. The Rule was previously available through the pilot and the Commission is extending the pilot for only six months. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is consistent with Section 15A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2)[8] that the proposed rule change (SR–NASD–97–87) is hereby approved on an accelerated basis for a six-month pilot basis, through July 3, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

[3] *See* Securities Exchange Act Release No. 38069 (December 20, 1996), 61 FR 68806 (December 30, 1996).

[4] A copy of Notice to Members 97–59 is attached as Exhibit 2 to the filing.

[5] The comment letters are attached as Exhibit 3 to the filing.

[6] 15 U.S.C. 78*o*–3.

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33526 Filed 12–23–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39460; International Series Release No. 1109; File No. SR–Phlx–97–22]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change, as Amended, and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Trading of Customized Foreign Currency Options on the Mexican Peso

December 17, 1997.

I. Introduction

On May 2, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change to amend its rules to accommodate the trading of customized foreign currency options (''FCOs'') on the Mexican peso.[3] On May 21, 1997, the Phlx submitted to the Commission Amendment No. 1 to the proposal.[4] Notice of the proposal was published for comment and appeared in the **Federal Register** on May 30, 1997.[5] On July 15, 1997, the Phlx submitted to the Commission Amendment No. 2 to the proposal.[6] On December 12, 1997, the Phlx submitted to the Commission Amendment No. 3 to the proposal.[7] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Description of the Proposal

The Phlx proposes to amend its rules to accommodate the trading of customized foreign currency options on the Mexican peso. Currently, the Phlx offers listed FCOs on the British pound, French franc, Swiss franc, Japanese yen, Canadian dollar, Australian dollar, German mark and the European Currency Unit. Since November 1994, the Exchange has offered the ability to trade customized contracts on all of the above currencies in relation to the U.S. dollar or in relation to each other.[8] In 1995, the Exchange listed for trading customized options on the Italian Lira and the Spanish peseta.[9] The Exchange is proposing to list and trade customized options on the Mexican peso pursuant to Phlx Rule 1069. The Exchange is requesting approval to trade the peso only against the U.S. dollar and the Canadian dollar. In making this proposal, the Exchange states that it wants to capitalize upon Mexico's position near the forefront of the world's emerging markets, as well as the increased activity in Mexican equities and derivative securities based on Mexican markets.

Because the peso would only trade as a customized contract, there would be no continuously quoted series of peso contracts. Phlx Rule 1069(a)(1) provides that customized options contracts may be traded on any approved underlying foreign currency pursuant to Phlx Rule 1009. Therefore, the Exchange proposes to amend Phlx Rule 1009 to add the Mexican peso to the list of approved underlying foreign currencies. Pursuant to Phlx Rule 1069(a)(1)(B), users would be able to trade customized contracts between the Mexican peso (''MXP'') and the U.S. dollar (''USD'') in U.S. terms (USD/MXP), or as an inverse contract (MXP/USD) (*i.e.*, the trading currency is Mexican pesos and the underlying currency is U.S. dollars). The contract size for the customized contract in U.S. terms would be 250,000 MXP.[10] The premium will be .00001 USD per unit or 2.50 USD for an option contract having a unit of trading of 250,000 MXP. The contract size for the inverse would be 50,000 USD. The premium will be .0001 MXP per unit or 5.00 MXP for an option contract having a unit of trading of 50,000 USD.

No cross rate FCO on the peso will be offered at this time except for the Mexican peso against the Canadian dollar (''CAD''). The contract size for the cross-rate (CAD/MXP) would be 250,000 MXP. The premium will be .00001 CAD per unit or 2.50 CAD for an option contract having a unit of trading of 250,000 MXP. The contract size for the cross-rate (MXP/CAD) would be 50,000 CAD. The premium will be .0001 MXP per unit or 5.00 MXP for an option contract having a unit of trading of 50,000 CAD.

Consistent with Exchange Rule 1069(j), no quote spread parameters will apply to these contracts. The Exchange also proposes to amend Rules 1033 and 1034 to explain how premiums will be quoted and what the minimum fractional change will be for USD/MXP.

The Exchange proposes to apply customer margin ''add-on'' percentage of 17% for customized MXP contracts.[11] In no event will the Exchange reduce the margin levels for customized FCOs involving the peso below the 17% level without the prior approval of the Commission pursuant to Section 19(b) of the Act. Whenever the customer margin levels for customized FCOs on the peso are changed, the Exchange will promptly notify the Exchange's membership and the public. The Exchange represents that this margin level covers at least 99% of all five day price movements over the last three years.[12]

As with customized FCOs currently being listed by the Phlx. The Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Customized FCOs provide investors with the ability, within specified limits, to trade FCOs with customized strike prices, cross-rate FCOs on any two approved currencies, and FCOs where the U.S. dollar is the underlying currency. In addition, FCO participants may express quotes for customized FCOs as a percentage of the underlying currency, in addition to quoting in terms of the base currency per unit of the underlying currency. *See* Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1995) (''Release No. 34–34925'').

[4] In Amendment No. 1, the Phlx clarified the contract specifications for the U.S. dollar/Mexican Peso contract, the inverse contract (Mexican Peso/U.S. dollar), and the Canadian dollar cross-rates, as described more fully herein. *See* Letter from Nandita Yagnik, Phlx, to Margaret Blake, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated May 21, 1997.

[5] *See* Securities Exchange Act Release No. 38667 (May 22, 1997), 62 FR 29385.

[6] In Amendment No. 2, the Phlx proposes to set the position limit for the Mexican Peso at 100,000 contracts. *See* Letter from Nandita Yagnik, Phlx, to Margaret Blake, OMS, Market Regulation, Commission, dated July 11, 1997 (''Amendment No. 2'').

[7] In Amendment No. 3, the Phlx proposes to increase the proposed customer margin for FCOs on the Mexican Peso from 8% to 17%. Further, the Phlx states that the margin level of 17% will remain in effect until the Phlx receives Commission approval for the new customer margining system which will be filed with the Commission after it is approved by the Phlx Board of Directors. If approved by the Commission, margin for options on the Mexican peso would then be set at levels established by the new margining system. *See* Letter from Nandita Yagnik, Phlx, to John Ayanian, OMS, Market Regulation, Commission, dated December 10, 1997.

[8] *See* Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994).

[9] *See* Securities Exchange Act Release No. 36255 (September 20, 1995), 60 FR 50229 (September 28, 1995).

[10] Based on an exchange rate of 8.1070 Mexican peso/U.S. dollars on December 9, 1997, as published in The Wall Street Journal, this would correspond to an opening position for a Mexican peso FCO transaction (*i.e.*, 100 contracts) valued at approximately $3,083,000.

[11] For these purposes, ''add-on'' is the percentage of the current market value of the currency a Customized FCO that the holder of a ''short'' position must pay in addition to the current market value of each Customized FCO. The 17% add-on applies to both initial and maintenance margin positions in Mexican peso options.

[12] *See* Amendment No. 3, *supra* note 7.

Clearing Corporation (''OCC'') will clear and settle all trades in customized FCOs involving the peso. Because quotes in these options will not be continuously updated or otherwise priced by the Phlx, OCC will generate a theoretical price based on the prices and quotes of the customized FCOs and the closing value of the relevant underlying currency. OCC will use this price to market the customized FCO contracts involving the peso daily and to calculate margin requirements.[13]

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[14] First, the Commission believes that the trading of listed customized FCOs on the peso should provide investors with a hedging and risk transfer vehicle that will reflect the overall movement of the peso in relation to the U.S. dollar and the Canadian dollar. In this regard, customized FCOs on the peso should provide investors with an efficient and effective means of managing risk associated with the peso.[15]

Second, customized FCOs on the peso will trade within the Exchange's existing framework for customized FCOs, unless otherwise amended herein, which the Commission has previously found to adequately address the Commission's regulatory concerns.[16] Specifically, this framework includes, among other things, rules pertaining to: obligations of specialists and registered options traders (Rule 1014); position limits (Rule 1001);[17] exercise limits (Rule 1002); bids and offers (Rule 1033); minimum fractional changes (Rule 1034); and trading rotations, halts, and suspensions (Rule 1047).[18]

Third, the Commission believes it is reasonable for the Phlx to set a position limit of 100,000 contracts for options on the Mexican peso because the total U.S. dollar value position limit is similar to those approved for the Spanish peseta and the Italian lira. For example, the total U.S. dollar value position limit for FCOs on the Italian lira when approved was $3,096,000,000.[19] Currently, the total U.S. dollar value position limit for FCOs on the Mexican peso is approximately $3,083,000,000.[20] Additionally, the Commission notes that the proposed position limit of 100,000 contracts for customized FCOs (including customized cross-rates with the Canadian dollar) involving the Mexican peso imposes more restrictive limits than Phlx Rule 1001 would otherwise provide.[21]

Fourth, the Exchange has proposed adequate customer margin requirements for customized FCOs on the Mexican peso. The proposed add-on margin (i.e., 17%) provides sufficient coverage to account for historical and potential volatility in the peso in relation to the U.S. dollar. Moreover, customized cross-rates involving the peso and the Canadian dollar will be margined at the 17% margin add-on level. As a result, the Commission believes that the proposed customer margin levels will result in adequate coverage of contract obligations and are designed to reduce risks arising from inadequate margin levels for customized FCOs involving the Mexican peso.

The Commission finds good cause for approving Amendment Nos. 2 and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As noted above, in proposed Amendment No. 2, the Phlx sets a position limit that, in total U.S. dollar value terms, is similar to position limits approved for options on the Spanish peseta and the Italian lira. In addition, the Phlx's proposal to set similar position limits for options on the Spanish peseta and the Italian lira was published in the **Federal Register** for the full 21-day comment period without any comments being received by the Commission.

Second, the proposal in Amendment No. 3 to increase the margin level for customized FCOs (including customized cross-rates with the Canadian dollar) involving the Mexican peso serves an investor protection purpose by reducing the risks that can arise from inadequate margin levels. Additionally, the Commission notes that the changes set forth in Amendment No. 3 impose more restrictive standards than those contained in the original proposal which was published in the **Federal Register** for the full 21-day comment period without any comments being received by the Commission.

Accordingly, the Commission believes that Amendment Nos. 2 and 3 are consistent with Section 6(b)(5) of the Act and that good cause exists to approve these amendments on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to SR–Phlx–97–22 and should be submitted by January 14, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (File No. SR–Phlx–97–22) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33587 Filed 12–23–97; 8:45 am]

BILLING CODE 8010–01–M

[13] Telephone conversation between Nandita Yagnik, Phlx, and John Ayanian, OMS, Market Regulation, Commission, on December 17, 1997.

[14] 15 U.S.C. 78f(b)(5).

[15] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] *See* Release No. 34–34925, *supra* note 3.

[17] Phlx Rule 1001 generally provides for position limits of 200,000 contracts on the same side of the market relating to the same foreign currency, unless otherwise noted in the text of the rule. In Amendment No. 2, the Phlx proposed lower position limits of 100,000 contracts for options on the Mexican peso. *See* Phlx Rule 1001, commentary .05(b).

[18] *Id.*

[19] Based on an exchange rate of 1,1615 Italian lira/U.S. dollar on August 23, 1995, as published in The Wall Street Journal. Based on an exchange rate of 1,753 Italian lira/U.S. dollar on December 9, 1997, as published in The Wall Street Journal, the total U.S. dollar value position limit was approximately $2,852,000,000.

[20] Based on an exchange rate of 8.1070 Mexican peso/U.S. dollar on December 9, 1997, as published in The Wall Street Journal.

[21] *See supra* note 17.

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Region IV, North Florida District, Jacksonville, Florida; Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, North Florida District Office, Jacksonville, Florida, Advisory Council will hold a public meeting from 12:00 p.m. to 2:00 p.m., January 8, 1998, at the Latin-American Club, 5110 Lourcey Road, Jacksonville, Florida, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Claudia D. Taylor, U.S. Small Business Administration, 7825 Baymeadows Way, Suite 100–B, Jacksonville, Florida 32256–7504, telephone (904) 443–1933.

Debra Silimeo,

Deputy Associate Administrator, Office of Communications & Public Communications.

[FR Doc. 97–33497 Filed 12–23–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Boston, Region I—Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Boston, will hold a public meeting at 10:00a.m. on Thursday, January 15, 1998, at the Boston District Office, Room 265, to discuss such matters as may be presented by members and staff of the U.S. Small Business Administration, or others present.

For further information, please write or call Ms. Mary E. McAlency, District Director, U.S. Small Business Administration, 10 Causeway Street, Room 265, Boston, Massachusetts, 02222–1093, telephone (615) 565–5560.

Debra Silimeo,

Deputy Associate Administrator, Office of Communication & Public Liaison.

[FR Doc. 97–33498 Filed 12–23–97; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities; Request for Emergency Review by the Office of Management and Budget

The Social Security Administration publishes a list of information collection packages that will require clearance by OMB in compliance with P.L. 104–13 effective October 1, 1995, the Paperwork Reduction Act of 1995. The information collections listed below have been submitted to OMB for emergency clearance. OMB approval has been requested by December 29, 1997:

1. 0960-NEW. The Social Security Administration (SSA) is piloting disability redesign models, one of which is the Full Process Model (FPM). A key element of the FPM is the predecision interview (PDI) which gives claimants about to be denied disability benefits the opportunity to speak directly with the decision maker and/or submit additional medical evidence before a final decision is made. In the first 8 months of the pilot, SSA has found that only about half the applicants respond to the letter. SSA is concerned that applicants may not understand the letter, so it is proposing to conduct a survey to determine the reasons individuals are not responding. The respondents are a random sample of title II and title XVI applicants who have recently received a PDI letter.

Number of respondents: 500.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 42 hours.

To receive a copy of the form or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed below. Written comments and recommendations regarding the information collection(s) should be directed to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235

Dated: December 17, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–33432 Filed 12–23–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 2669]

Proposed Unidroit Convention and its Aircraft Protocol Meeting Notice

AGENCY: Department of State.

ACTION: Notice is hereby given of an Advisory Committee meeting to be held on Thursday, February 26 starting at 9:00 a.m. in the Civil Aeromedical Institute auditorium, Room 254, located at 6500 S. MacArthur Blvd, Oklahoma City, Oklahoma. The meeting will end at or before 1:00 p.m. on February 26. There may be an afternoon session from 2:00 p.m. to 5:00 p.m. for further discussion.

Attendence: The meeting is open to the public, free of charge, and is limited to available seating. It may be of interest to persons associated with the selling, leasing, and financing of aircraft and aircraft engines, including persons who search title, give title opinions, submit conveyances for recordation to the FAA Aircraft Registry, or otherwise participate in aircraft financing.

Nature: The meeting is intended only to provide information. No formal record will be made. No written comments will be accepted from the audience.

Agenda:

(1) Introductory remarks.

(2) Purpose of UNIDROIT Convention.

(3) Status of actions taken (UNIDROIT Convention and Aircraft Protocol).

(4) Summary of UNIDROIT Convention with emphasis on registration of international interests.

(5) Summary of Aircraft Protocol.

(6) Relationship of UNIDROIT Convention to existing laws and treaties.

(7) Question and Answer Period.

Background: The United States Government, through the United States Department of State, has been participating with other nations in studying a proposed multilateral convention (UNIDROIT Convention) to protect international secured interests in mobile equipment, including aircraft.

A preliminary draft of the UNIDROIT Convention will be submitted to the UNIDROIT Governing Council in early 1998. Thereafter, it is expected that the draft will be circulated to States to determine whether to proceed to intergovernmental negotiations to conclude the Convention.

As proposed, the UNIDROIT Convention would not take effect unless a protocol has been adopted for a specific category of mobile objects. In that regard, UNIDROIT's Aircraft Equipment Protocol Group has completed a preliminary draft protocol

which would pertain to certain large airframes and large helicopters, and jet and turbine engines.

The UNIDROIT Convention and Aircraft Equipment Protocol together, when and if adopted and enacted into law by contracting states would provide a comprehensive international system to protect leasing and financing interests. Significant features might include default remedies, priorities, and establishment of an international registration system to register (record) international consensual interests, non-consensual interests, assignments, prospective assignments, and subordinations.

It is anticipated that the international registration system would be primarily an electronic notice system. As proposed, the international registration system is not intended to interfere with countries' existing national registration and recordation systems (e.g., Parts 47 and 49 of the Federal Aviation Regulations).

FOR FURTHER INFORMATION CONTACT: Joseph R. Standell, Aeronautical Center Counsel, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125, telephone number (405) 954–3296; fax number (405) 954–4676.

Dated: December 17, 1997.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law, United States Department of State.

[FR Doc. 97–33626 Filed 12–23–97; 8:45 am]

BILLING CODE 4701–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–63]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 16, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 19, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29077.

Petitioner: Bombardier Inc.

Sections of the FAR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought: In lieu of the requirements of 14 CFR 25.1435(b)(1) for a complete hydraulic system proof pressure test on the airplane, Bombardier proposes to conduct a proof pressure test at the system relief pressure, 3400 psig, and component testing at 1.5 times operating pressure (4500 psi) per § 25.1435(a)(2).

Docket No.: 29052.

Petitioner: Business Airfreight.

Sections of the FAR Affected: 14 CFR 43.3.

Description of Relief Sought: To permit appropriately trained certificated pilots employed by Business Airfreight (BAF) to replace navigation lightbulbs, landing lightbulbs, taxi lightbulbs, missing or broken static wicks, and missing or broken bonding straps on BAF's aircraft used in operations conducted under 14 CFR part 135.

Dispositions of Petitions

Docket No.: 28357.

Petitioner: United Airlines, Inc.

Sections of the FAR Affected: 14 CFR 145.45(f).

Description of Relief Sought Disposition: To permit United Airlines, Inc., to continue to make available to all of its supervisory and inspection personnel one copy of its repair station inspection procedures manual, rather than providing a copy of the manual to each of these individuals.

Grant, December 1, 1997, Exemption No. 6393A.

Docket No.: 28835.

Petitioner: Southwest Airlines Co.

Sections of the FAR Affected: 14 CFR 43.3.

Description of Relief Sought Disposition: To permit ramp supervisors employed by Southwest to take aircraft brake temperature readings on arrival of its aircraft.

Denial, December 5, 1997, Exemption No. 6704.

Docket No.: 28776.

Petitioner: Mr. Dwight E. Reber and Mrs. Cori P. Reber.

Sections of the FAR Affected: 14 CFR 21.25(a)(2), 21.29(a), and 21.185(c).

Description of Relief Sought Disposition: To permit Mr. And Mrs. Reber to be entitled to a restricted category type certificate and airworthiness certificate for their Kamov Ka–26 light twin-engine helicopter.

Denial, December 2, 1997, Exemption No. 6702.

Petition for Exemption

Docket No.: 29077.

Petitioner: Bombardier Inc.

Regulations Affected: 25.1435(b)(1).

Description of Petition: In lieu of the requirements of 14 CFR 25.1435(b)(1) for a complete hydraulic system proof pressure test on the airplane, Bombardier proposes to conduct a proof pressure test at the system relief pressure, 3400 psig, and component testing at 1.5 times operating pressure (4500 psi) per § 25.1435(a)(2).

[FR Doc. 97–33621 Filed 12–24–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from the Requirements of Signal System Regulations

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Block Signal Application (BS–AP)–No. 3446

Applicant: SOO Line Railroad Company,
Mr. Roscoe VanPelt,
District Coordinator Signals & Communications,
Canadian Pacific Railway,
105 South 5th Street, Box 530,
Minneapolis, Minnesota 55440

The SOO Line Railroad Company seeks approval of the proposed discontinuance and removal of the automatic block signals, on the single main track, between milepost 12.27 and milepost 16.55, near St. Paul, Minnesota, on the Paynesville Subdivision, consisting of the removal of signals No. 2 and No. 3.

The reason given for the proposed changes is that the facilities are no longer needed for present operations and to reduce maintenance.

BS–AP–No. 3447

Applicant: Central Kansas Railway, L.L.C.,
Mr. L. R. Mitchell,
Superintendent,
1825 West Harry Street,
Wichita, Kansas 67213.

The Central Kansas Railway, L.L.C. seeks approval of the proposed discontinuance and removal of the automatic block signal (ABS) system, on the single main track, between Bridgeport, Kansas, milepost 491.2 and Towner, Colorado, milepost 747.5.

The reason given for the proposed changes is that the present train traffic in the area does not warrant the need for the ABS system, and the signal pole line is in fragile condition and will not survive the first ice storm of the season.

BS–AP–No. 3448

Applicant: Burlington Northern and Santa Fe Railway,
Mr. William G. Peterson,
Director Signal Engineering,
4515 Kansas Avenue,
Kansas City, Kansas 66106.

The Burlington Northern and Santa Fe Railway seeks approval of the proposed modification of the traffic control system, on the No. 2 Main Track, between 30th Street and Bravo, milepost 2.2 and milepost 5.6, near Kansas City, Kansas, Fort Scott Subdivision, Kansas Division, consisting of the discontinuance and removal of automatic absolute signal 6RB, which is located on the elevator track and controlled by the switch position of the Electric Lock 7.

The reason given for the proposed changes is to improve train operations in the area, and that the switch is electrically locked in CTC territory, and does not require a signal.

BS–AP–No. 3449

Applicant: Union Pacific Railroad Company,
Mr. P. M. Abaray,
Chief Engineer-Signals/Quality,
1416 Dodge Street, Room 1000,
Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the rail locks and associated power-operated switch machines, on the single main track Morley Bridge, milepost 95.0, near Morley, Louisiana, on the Alexandria Subdivision.

The reason given for the proposed changes is to modernize the operation of the Morley Bridge.

BS–AP–No. 3450

Applicant: Union Pacific Railroad Company,
Mr. P. M. Abaray,
Chief Engineer-Signals/Quality,
1416 Dodge Street, Room 1000,
Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the rail locks and associated power-operated switch machines, on the single main track Melville Bridge, milepost 129.7, near Melville, Louisiana, on the Alexandria Subdivision.

The reason given for the proposed changes is to modernize the operation of the Melville Bridge.

BS–AP–No. 3451

Applicant: Union Pacific Railroad Company,
Mr. P. M. Abaray,
Chief Engineer-Signals/Quality,
1416 Dodge Street, Room 1000,
Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the hand-operated electric rail locks, on the single main track Ouachita River Bridge, milepost 528.2, approximately 27 miles south of Monroe, Louisiana, on the Monroe Subdivision.

The reason given for the proposed changes is to modernize the operation of the Ouachita River Bridge.

BS–AP–No. 3452

Applicant: Union Pacific Railroad Company,
Mr. P. M. Abaray,
Chief Engineer-Signals/Quality,
1416 Dodge Street, Room 1000,
Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the rail locks and associated power-operated switch machines, on the single main track Canal Bridge, milepost 6.2, near Port Allen, Louisiana, on the Avoyelles Branch.

The reason given for the proposed changes is to modernize the operation of the Canal Bridge.

BS–AP–No. 3453

Applicant: National Railroad Passenger Corporation,
Mr. R. C. VanderClute,
Vice President, Operations,
60 Massachusetts Avenue, N.E.,
Washington, D.C. 20002.

The National Railroad Passenger Corporation seeks approval of the proposed conversion of a portion of ''R'' Interlocking, at Sunnyside Yard, milepost E3.7, Queens Borough, New York, on the Metropolitan Division of the Northeast Corridor, to a modern Yard Switching Center, with yard switches and route indicators to authorize non-passenger train movements to and from the yard. The proposed changes include reliable logic to protect against conflicting routes, yard switches locked for movements with non-vital logic, and route indicators which will not permit movements exceeding Restricted Speed.

The reasons given for the proposed changes are that the original electro-pneumatic switches with mechanical locking bed at ''R'' Interlocking is 87 years old and in need of replacement, and maintenance of the interlocking in a yard area, where no train movements carry revenue passengers, can no longer be justified.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the

proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on December 10, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. 97–33554 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Nos. 97–060; Notice 2; 97–061; Notice 2; 97–064; Notice 2; 97–065; Notice 2; 97–068; Notice 2; 97–069; Notice 2; NHTSA–97–3021]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles are eligible for importation.

SUMMARY: This notice announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATES: These decisions are effective as of the date of their publication in the **Federal Register**.

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), 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, 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.

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**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 19, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

Annex A.—Nonconforming Motor Vehicles Decided To Be Eligible for Importation

1. Docket No. 97–060
   - Nonconforming Vehicles: 1991–1996 Lexus SC300 and SC400
   - Substantially similar U.S.-certified vehicles: 1991–1996 Lexus SC300 and SC400
   - Notice of Petition published at: 62 FR 48709 (September 16, 1997)
   - Vehicle Eligibility Number: VSP–225
2. Docket No. 97–061
   - Nonconforming Vehicles: 1979 Jeep CJ–7
   - Substantially similar U.S.-certified vehicles: 1979 Jeep CJ7
   - Notice of Petition published at: 62 FR 48711 (September 16, 1997)
   - Vehicle Eligibility Number: VSP–224
3. Docket No. 97–064
   - Nonconforming Vehicles: 1990–1993 BMW K1 Motorcycles
   - Substantially similar U.S.-certified vehicles: 1990–1993 BMW K1 Motorcycles
   - Notice of Petition published at: 62 FR 51177 (September 30, 1997)
   - Vehicle Eligibility Number: VSP–228
4. Docket No. 97–065
   - Nonconforming Vehicles: 1986—1997 Suzuki GSXR 1100 Motorcycles
   - Substantially similar U.S.-certified vehicles: 1986—1997 Suzuki GSXR 1100 Motorcycles
   - Notice of Petition published at: 62 FR 51178 (September 30, 1997)
   - Vehicle Eligibility Number: VSP–227
5. Docket No. 97–068
   - Nonconforming Vehicles: 1990–1991 Mercedes Benz 420 SE
   - Substantially similar U.S.-certified vehicles: 1990–1991 Mercedes Benz 420 SEL
   - Notice of Petition published at: 62 FR 53047 (October 10, 1997)
   - Vehicle Eligibility Number: VSP–230
6. Docket No. 97–069
   - Nonconforming Vehicles: 1987–1995 BMW K75S Motorcycles
   - Substantially similar U.S.-certified vehicles: 1987–1995 BMW K75S

Motorcycles
Notice of Petition published at: 62 FR 53048 (October 10, 1997)
Vehicle Eligibility Number: VSP–229

7. Docket No. NHTSA 3021
Nonconforming Vehicles: 1994–1997 BMW R1100 Motorcycles
Substantially similar U.S.-certified vehicles: 1994–1997 BMW R1100 Motorcycles
Notice of Petition published at: 62 FR 54896 (October 22, 1997)
Vehicle Eligibility Number: VSP–231

[FR Doc. 97–33616 Filed 12–23–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Authorization Agreement for Preauthorized Payment

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form ''Authorization Agreement for Preauthorized Payment.''

DATES: Written comments should be received on or before February 23, 1998.

ADDRESSES: Direct all written comments to Financial Management Service, 3361–L 75th Avenue, Landover, Maryland 20785.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Cash Management Directorate, 401–14th Street, S.W., Washington, D.C. 20227, (202) 874–6540.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Authorization Agreement for Preauthorized Payment.

OMB Number: 1510–0059.

Form Number: SF 5510.

Abstract: This form is used to collect information from remitters (individuals and corporations) to authorize electronic fund transfers from accounts maintained at financial institutions to collect monies for government agencies.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 25,000.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: December 17, 1997.

Mitchell A. Devine,

Assistant Commissioner.

[FR Doc. 97–33505 Filed 12–23–97; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Exchange Visitor Program; Skills List

AGENCY: United States Information Agency.

ACTION: Amendment to delete the Czech Republic from the Exchange Visitor Skills List. Retroactive release from Skills List obligation for all countries without skills lists.

SUMMARY: The Exchange Visitor Skills List is amended by deleting the fields of specialization for the Czech Republic at the request of the Government of the Czech Republic. Also, in the case of all governments which have requested removal from the skills list, their citizens are retroactively no longer required, on the basis of the skills list, to comply with the two-year home residence requirement of 212(e) of the Immigration and Nationality Act.

DATES: This amendment shall become effective upon publication in the **Federal Register**.

ADDRESSES: Comments and requests for further information should be addressed to: Patricia B. Gribben, Chief, Waiver Review Branch, Exchange Visitor Program Services, USIA, 301 Fourth Street, SW, Suite 700, Washington, DC 20547, telephone (202) 401–9800.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 212(e) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(E), The Secretary of State designated on April 25, 1972, a list of fields of specialized knowledge or skill (referred to as the Exchange Visitor Skills List) and those countries which clearly required the services of persons engaged in one or more of such fields. Any alien who was a national or resident of one of those countries and obtained an exchange visitor visa and/or became a participant in an Exchange Visitor Program involving a designated field of specialized knowledge or skill after the effective date of that notice was subject to the two-year home country physical presence requirement of section 212(e) of the Immigration and Nationality Act and 22 CFR 41.65(b).

Pursuant to the provisions of Reorganization Plan No. 2 of 1977, section 217 of the United States Information Agency Authorization Act of August 24, 1982 (Pub. L. 97–241) and Executive Order Nos. 12048 (March 27, 1978) and 12388 (October 14, 1982) the Director, United States Information Agency, on June 12, 1984 further amended the 1972 Exchange Visitor Skills list, as revised in 1978, to increase the designated fields of specialized knowledge of skills. The 1984 amendment gave notice of the addition of China and the deletion of Cambodia, Iran and Viet-Nam from the skills list as well as the indefinite suspension of Afghanistan. In September, 1986 an amendment reflected the deletion of South Africa, addition of Iraq and changes in Group 4 for the People's Republic of China. It also clarifies that the skills list for the People's Republic of China is not applicable to exchange visitors from Taiwan. A February 1987 amendment gave notice of the indefinite suspension of Libya and the addition of two fields to Group (1) of the skills list for the People's Republic of China. Amendments in March and April, 1987, contained date corrections. An amendment in December, 1988 added additional fields to the skills list for the

People's Republic of China and in July, 1993 an amendment removed Spain from the skills list.

A comprehensive revised Skills List was published in the **Federal Register** on January 16, 1997. This list became effective March 17, 1997.

This notice amends FR Vol. 62, Doc. 97–677, January 16, 1997.

Accordingly, the Exchange Visitor Skills List, is further amended by deleting the Czech Republic from said list. It also provides retroactive release from the skills list obligation for citizens of countries which are not listed on the Exchange Visitor Skills List.

Dated: December 18, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–33499 Filed 12–23–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Voice of America Seeks Private Sector Partners, Joint Ventures & Corporate Underwriting

AGENCY: United States Information Agency.

ACTION: Seeking private sector partners, joint ventures & corporate underwriting.

SUMMARY: The Voice of America (VOA) is the United States Government's world-wide broadcasting service and a major component of the U.S. Information Agency's (USIA) International Broadcasting Bureau. VOA has an unparalleled worldwide news gathering service, with more than 25 bureaus around the globe; it produces a wide variety of programming in 52 languages, including English, reaching about 86 million people around the globe; it has a 55-year worldwide reputation for accuracy and excellence, making it far and away the best known and respected American source of news and information in the world; millions of people have learned English by listening to the English teaching and Special English programs of VOA; many of its language services, such as the Spanish and Portuguese Services for Latin America (VOA Latin America), now work with a strong line-up of about 107 local affiliate stations.

VOA is prepared to explore a variety of possible arrangements with the private sector and accept proposals for joint ventures, corporate underwriting, and other relationships designed to further its mission while reducing the expenditure of taxpayer dollars. The Agency is authorized, pursuant to 22 U.S.C. 1437, to encourage and utilize private agencies' participation, including existing American press, publishing, radio, et. al., in carrying out its mission.

Accordingly, the U.S. Information Agency and its International Broadcasting Bureau are seeking private sector partners for its various VOA programs and program services. Agreements with more than one organization could result from this announcement. Written expressions of interest should be submitted to John G. Busch, Office of Contracts, 301 4th St., SW., Room M–22, Washington, DC 20547; telephone no. 202–205–5480; fax no. 202–105–5466; or Internet: JBUSCH@USIA.GOV. All correspondence will be considered.

Dated: December 18, 1997.

John G. Busch,

Senior Contracting Officer, Office of Contracts.

[FR Doc. 97–33568 Filed 12–23–97; 8:45 am]

BILLING CODE 8230–01–M

federal register

Wednesday
December 24, 1997

Part II

Office of Personnel Management

Personnel Demonstration Project; Alternative Personnel Management System for the U.S. Department of Commerce; Notice

OFFICE OF PERSONNEL MANAGEMENT

Personnel Demonstration Project; Alternative Personnel Management System for the U.S. Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Notice of approval of a demonstration project final plan.

SUMMARY: Title VI of the Civil Service Reform Act, now codified in 5 U.S.C. 4703, authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different human resources management concepts to determine whether changes in policies and procedures result in improved Federal human resources management. This demonstration project is designed to replicate many of the features of the National Institute of Standards and Technology (NIST) demonstration project created by Congress pursuant to the National Bureau of Standards Authorization Act for Fiscal Year 1987 (Pub. L. 99–574). This project will cover units of four Department of Commerce (DoC) organizations:

(1) Technology Administration
—Office of the Under Secretary
—Office of Technology Policy
(2) Economics and Statistics Administration
—Bureau of Economic Analysis
(3) National Telecommunications and Information Administration
—Institute for Telecommunication Sciences
(4) National Oceanic and Atmospheric Administration
—Units of the Office of Oceanic and Atmospheric Research
—Units of the National Environmental Satellite, Data, and Information Service
—Units of the National Marine Fisheries Service

DATES: This demonstration project will be implemented on March 24, 1998.

FOR FURTHER INFORMATION CONTACT: (1) Department of Commerce: Darlene F. Haywood, U.S. Department of Commerce, 1400 Constitution Avenue, N.W., Room 5004, Washington, DC 20230, 202–482–3620; (2) OPM: Judith B. White, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 7460, Washington, DC 20415, 202–606–1526.

SUPPLEMENTARY INFORMATION:

1. Background

The NIST Demonstration Project was successful and was made permanent by Congress in 1996 (Pub. L. 104–113). Independent surveys have demonstrated that a majority of NIST employees are satisfied with the demonstration project. The Federal Employees Pay Comparability Act of 1990 included many of the interventions tested successfully at NIST. The DoC project is designed to test whether the interventions of the NIST project can be successful in DoC environments with different missions and different organizational hierarchies. Like the NIST project, the DoC Demonstration Project involves simplified position classification, pay for performance, and simplified recruiting and examining processes.

2. Overview

A total of 67 oral and written comments were received in response to the first **Federal Register** Notice of May 2, 1997. These comments were a valuable source of input for the Department of Commerce Demonstration Project. All comments have been considered, and changes to the project plan have been made where deemed appropriate. Changes to the plan involve supervisory pay, performance-based reduction-in-force retention credit, and the extended probationary period for employees in the Scientific and Engineering Career Path. In addition to these changes, several sections of the plan have been clarified and expanded. Some editorial changes and corrections were also made.

3. Summary of Comments

Nine speakers commented on the first **Federal Register** Notice at the five public hearings. A total of 58 letters were received, with one letter bearing 20 signatures. A variety of issues and concerns were raised; however, recurring comments addressed five major topics:

(1) accountability, (2) reduction-in-force (RIF) retention credit, (3) impact of the project on equal employment opportunity (EEO)/Diversity, (4) pay administration, and

(5) performance appraisal. Other issues raised include classification, employee input, project evaluation, and communication. The following summarizes the written and oral comments by topic and provides a response to each.

(1) Accountability

Comments. A majority (about two-thirds) of the comments from individuals and organized groups expressed a high level of concern that the demonstration project gives more authority and responsibility to supervisors and managers. Believing that many supervisors do not properly and fairly execute supervisory responsibilities or utilize the power and tools provided under the current management system, these employees fear a new system that gives supervisors additional authority over their career and pay. Employees specifically questioned whether proper controls would be in place to prevent management abuse in the administration of the performance appraisal and classification systems. Comments focused on the potential for favoritism and unfair treatment of employees in the distribution of ratings and awards. Employees also questioned whether pay pool managers would have the requisite knowledge to make fair decisions about the work of all employees in the pay pool.

Response. The Department will implement a number of measures to ensure management accountability. These will include: (1) employee focus groups, (2) supervisory training, and (3) oversight.

Employee focus groups: Annual project evaluations will utilize employee focus groups as an important source of data in measuring the degree to which project interventions are accomplishing desired objectives.

Training: Supervisors and managers will receive detailed training in the new authorities they are to exercise. Classification training will emphasize the underlying principles of project classification and will instruct supervisors on the application of these principles to classification decisions. Training on the performance appraisal system will cover performance planning, monitoring, feedback, and appraisal. In addition, supervisors will receive training on the automated performance pay increase system and will be required to conduct a simulation of the performance evaluation and rewards system prior to the actual end-of-year performance appraisal. The training will also cover the pay pool manager's responsibilities for reviewing and reconciling ratings and ensuring equity and consistency in performance plans and ratings.

Oversight: The authorities delegated to supervisors under this demonstration project will be subject to three levels of oversight. The Office of Personnel Management will oversee the project under the authority of 5 U.S.C. 4703. The DoC Departmental Personnel Management Board (DPMB) will manage and oversee authority delegated to the Operating Personnel Management Boards (OPMBs) in participating

organizations, and OPMBs will monitor authorities delegated to supervisors, withdrawing them when warranted.

(a) Classification: Under authority delegated by the OPMBs, servicing human resources management staff will monitor and review classification decisions made by managers to ensure consistent and uniform application of classification policies and guidelines. When classification actions are found to be inconsistent with established policies, the servicing human resources management specialist will attempt to resolve the inconsistency with the responsible supervisor. If agreement cannot be reached, the issue will be referred to a Classification Review Panel (CRP). The CRP is an ad hoc advisory panel established by authority of the OPMB to review proposed classification actions referred to it by the servicing Human Resources Manager.

(b) Performance Evaluation: OPMBs will oversee the operating unit annual performance appraisal process, from development of plans to individual pay increases and bonuses. OPMBs will also establish operating unit guidelines on performance elements.

(2) Reduction-in-Force (RIF) Retention Credit

About half of all comments received addressed two related concerns with respect to RIF retention credit: loss of current performance-based credit and the percentage of employees eligible for credit under the project.

(a) Loss of current credit

Comments. Employees thought it unfair that conversion to the demonstration project would result in the loss of performance-based RIF credit acquired under the current system.

Response. The demonstration project will introduce a new ''pay-for-performance'' personnel system, and it is intended that all employees enter the system on an equal basis, i.e, on a ''level playing field.'' Allowing some employees to bring forward performance-based RIF credit gained under the current system would give those employees an unfair advantage.

(b) Percentage of Employees Eligible for Credit

Comments. A number of employees objected to the provision that would award performance-based credit for only those employees who rank in the top ten percent of their career paths.

Response. The objective of this feature is to reward performance that is truly outstanding. Consequently, the group of employees receiving this credit must, by definition, be limited. However, in order to more closely parallel agency historical experience, the project plan has been revised to grant performance-based RIF retention credit to employees who rank in the top 20 percent of their career path within a pay pool, rather than the top 10 percent.

(3) Impact of the Project on EEO and Diversity

Comments. Several employees expressed concern that the demonstration project would not support existing EEO and Diversity goals. Specific questions were raised about the impact of the project on the hiring of women and minorities and whether these groups would receive an equitable share of promotions, pay increases, and bonuses.

Response. EEO and Diversity goals of the Department will not change under the demonstration project. On an annual basis, the Department will continue to submit an annual report and update of affirmative employment to the Equal Employment Opportunity Commission. In addition, Diversity Plans and Diversity Councils now in place will continue to be required for organizations participating in the demonstration project. Also, Senior Executive Service managers will continue to be rated on a Diversity critical element. The Project Evaluation Model will include criteria that will track hiring, award, promotion, and retention data in order to closely monitor the impact of the project on workforce diversity. A variety of data sources will be used. These include records in servicing human resources management offices (including records of recruitment sources) and records of EEO complaints.

(4) Pay Administration

Two major compensation issues were raised. Several employees objected to the manner in which they would be compensated for time credited toward their next within-grade increase. In addition, some employees questioned the appropriateness of the supervisory pay differential.

(a) Within-Grade Increase (WIGI) Payout

Comments. Employees objected to the one-time lump sum payment for time credited toward the next within-grade increase on the grounds that it would result in a negative impact on their salary and retirement contributions and earnings. In lieu of the lump sum, some suggested that the WIGI payout be processed as a base pay increase. Others felt that they should be given a choice between a one-time payment and a permanent salary increase.

Response. Organizations participating in the demonstration project will be required to maintain compensation costs at the levels they would have reached under the current system. A decision to grant permanent salary increases for time credited toward within-grade increases would result in immediate cost escalation prior to implementation that would distort base cost calculations. Such a decision would be counter to Departmental cost containment goals. Moreover, under the demonstration project, the salaries of good performers will soon overtake salaries they would have reached with WIGIs through the following provisions of the project plan:

(1) Annual Performance Pay Increases: The new pay system provides an opportunity for a performance pay increase each year, regardless of an employee's position in the band. This is in contrast to the waiting periods of one to three years for a WIGI in the General Schedule (GS) system. The potential size of a performance pay increase in the new system is significantly higher than the size of a GS within-grade increase.

(2) Removal of Grade Barriers: Broad banding removes the pay barriers between the GS grades that are placed in the same band. For example, because grades GS–7 and GS–8 will be placed in the same band in the Support Career Path, employees who previously reached the top of the GS–7 grade will now have access to the GS–8 pay range.

(3) Potential for Higher Pay Increases Upon Promotion: When an employee is promoted to a higher band, the employee's salary may be set at any point in the range of the higher band as long as the new salary represents an increase of at least 6 percent.

(4) Supervisory Performance Pay: Through pay for performance, supervisors have salary potential 6 percent higher than the normal ceiling of a band.

(b) Supervisory Performance Pay

Comments. Several employees questioned the appropriateness of the immediate salary increase that supervisors would receive under the demonstration project. Some stated that supervisors would receive additional compensation because they would convert to a higher pay band on the basis of their supervisory duties, and therefore, an automatic pay increase would result in double compensation for supervision. Some asserted that this policy conflicts with the basic ''pay-for-performance'' concept and suggested that any pay incentive awarded supervisors should be given after the

first performance appraisal cycle, if earned through performance.

Response. The proposed project plan provided for an automatic pay differential for supervisors in the Scientific and Engineering (ZP) Career Path only. The amount of this type of differential was to be fixed at 3 percent or 6 percent, for first-level and second-level (and higher) supervisors, respectively. However, as a result of comments received, this feature of the system has been eliminated. ZP supervisors will not be given an immediate salary increase upon conversion to the demonstration project. Supervisors in all career paths will be eligible for salaries up to 6 percent higher than the maximum rates of their pay bands, and there will be no differentiation in the amount of the increase based on supervisory level. Any employee who meets the demonstration project definition of ''supervisor'' will be eligible for the 6 percent increase, which may be reached through performance pay increases granted through the regular performance appraisal process (see Section III(D)(4) *Supervisory Performance Pay*).

1. (5) Performance Appraisal

About half of all comments received addressed the performance appraisal process. Issues raised focused on three major areas: ranking versus teamwork, linking the annual comparability increase to performance, and the requirement for all performance elements to be critical.

(a) Impact of Ranking on Teamwork

Comments. Several employees commented that ranking employees by performance score will pit employees against each other, create a competitive work environment, and destroy teamwork.

Response. Under the demonstration project, employees will be rated against the criteria in their performance plans and ranked accordingly. There will be no direct comparison of employees' performance. It is expected that more competitive salaries that are directly tied to performance will improve both individual and organizational performance. Furthermore, the demonstration project performance appraisal system is flexible enough to reward those aspects of work that require cooperation and teamwork. For example, in units requiring high levels of cooperation and teamwork to accomplish organizational goals, supervisors may include contributions to the team's accomplishments in performance plans and rate employees accordingly.

(b) Linking the Annual Comparability Increase to Performance

Comments. Several employees expressed concern about the proposal to allow only those employees with a current annual performance rating of *Eligible* to receive the annual general comparability increase. They consider the annual increase a cost-of-living increase, which should not be tied to performance.

Response. The annual General Schedule (GS) pay adjustment is authorized under 5 U.S.C. 5303. It is based on the cost of labor, not the cost of living. GS pay adjustments are linked to changes in the Employment Cost Index (ECI), which measures the overall rate of change in employers' compensation costs in the private and public sector, excluding the Federal Government. The demonstration project is based on the principle of pay for performance; therefore, all pay increases, including the annual comparability increase, are tied to performance.

(c) Use of All Critical Elements in Performance Plans

Comments. Some employees expressed concern about the requirement for all elements in a performance plan to be critical elements. In their opinion, this will make it easier for supervisors to withhold pay increases or bonuses, or even initiate removal, when one element is rated *Unsatisfactory*.

Response. The requirement for all elements in a performance plan to be critical is not a departure from the current performance appraisal system. The demonstration project will not require that noncritical elements used in the current system be changed to critical elements under the project. The project simply eliminates noncritical elements. Also, while noncritical elements may now be included in an employee's performance plan, they have very little weight. Under the current system, unacceptable performance in one critical element results in a mandatory rating of *Unacceptable*. Likewise, under the demonstration project, unsuccessful performance on one element will result in a rating of *Unsatisfactory*.

(6) Other Comments

Employees addressed a number of other issues including classification, employee input to the project, project evaluation, and communication.

(a) Classification

Comments. One employee expressed concern that problems with the current GS classification standards would carry over into the demonstration project. Some questioned the basis for grouping occupations into four career paths, and a few employees questioned the career path decisions for their occupations. Others expressed dissatisfaction with what they consider the ''arbitrary'' structure of the pay bands, believing that employees who convert to the top of their bands will have minimal opportunity for pay increases.

Response. (1) Classification Standards: Under the demonstration project, OPM classification standards will not be used. They will be replaced with more streamlined classification standards that have been developed to cover the work in the participating organizations. Each pay band in a career path will have a narrative standard that uses two factors:

(1) Duties and Responsibilities and (2) Knowledge, Skills, and Abilities (KSAs). At each successively higher band, the standards describe a higher level of work and a higher level of KSAs required to successfully perform the work. These standards will simplify the classification process, make it more understandable to managers and employees, and reduce the time required to make classification decisions.

(2) Career Paths: The four career paths are intended to replace the GS method of grouping occupations. Under the current system, GS occupations are placed in occupational groups according to general subject matter. Each group includes both two-grade and one-grade interval occupations, with each type receiving different treatment for classification and other purposes. By contrast, career paths group occupations that have parallel career patterns and can be similarly treated for staffing, classification, pay, and other personnel purposes.

(3) Pay Bands: Pay bands are designed to parallel the typical career patterns for occupations in a career path. For example, in the Scientific and Engineering (ZP) Career Path, professional technical employees begin their careers as trainees (Band I), move through a developmental stage that builds on professional knowledge gained through undergraduate work (Band II), proceed to independent, full performance research or operational work (Band III), acquire program responsibility (Band IV), and achieve broad recognition as an authority in the field (Band V).

(4) Potential for Pay Increases: Within each pay band, the maximum potential for a performance pay increase is highest for employees in interval one and lowest for employees in interval

three. This arrangement is intended to slow salary increases as employees move through a band, duplicating the effect of the longer waiting periods for GS within-grade increases as GS employees move through the steps of a grade.

Comments. Some employees questioned whether their occupations were assigned to the appropriate career paths.

Response. The four career paths used in the Department of Commerce Demonstration Project as well as placement of occupations in those paths replicate the NIST system. Career path determinations for occupations not covered by the NIST project are based on the definitions of career paths. However, after the first year of operation, questions concerning changes in career path may be considered.

(b) Employee Input

Comment. A few employees felt that the project plan had not received any input from employees and that this could adversely impact relationships between management and employees.

Response. Numerous briefings were provided to employees and union representatives prior to the public hearings. Employees were given an opportunity to provide oral comments at five public hearings held between June 9 and June 26, 1997. These hearings were held in locations across the country that were accessible to most employees. In addition, the first **Federal Register** Notice, published on May 2, 1997, informed employees that written comments would be accepted through July 10, 1997. As a result of comments received from employees during the public comment period, several changes have been made to the project plan.

(c) Project Evaluation

Comments. Several employees commented on the design of the Project Evaluation Model. Specifically, it was suggested that employee morale be measured since a direct link exists between morale and organizational performance, that employee opinions be one of the data sources for evaluation of the project, and that EEO complaints and grievance patterns be incorporated into the evaluations.

Response. The Project Evaluation Model will include employee surveys as a source of data. The surveys will include criteria to measure organizational climate and general concerns. In addition, as part of the evaluation process, data on EEO complaints and grievances will be monitored.

(d) Communication

Comment. One employee commented that the level of communication to employees about the project had been inadequate.

Response. All employees were invited to attend general briefings on the proposed demonstration project in March, April, and early May of this year. At these briefings, employees received handouts describing the key features of the project. The publication of the first **Federal Register** Notice was announced in a general bulletin issued to all employees during the week of May 5, 1997. In that announcement, employees were informed that the **Federal Register** Notice was immediately available on the Office of Personnel Management Internet Home Page. Shortly thereafter, the publication of the **Federal Register** Notice was announced on the Department of Commerce Internet Home Page, and numerous copies were distributed to all servicing human resources offices for dissemination to employees. An article on the demonstration project appeared in the May/June 1997 issue of the Department's *Commerce People* magazine. In addition, a video which provides an overview of the project was developed and made available to employees, and several follow-up briefings were conducted. To ensure that employees are kept informed on the project, the Department will issue a Demonstration Project Newsletter periodically.

4. Demonstration Project System Changes

The following directs readers to the substantive changes and clarifications to the project plan. The page numbers below refer to the pages of the proposed plan, published in the **Federal Register** on May 2, 1997.

(1) Page 24256, 24258, and 24260: The Office of the Chief Financial Officer/ Assistant Secretary for Administration and the Office of the General Counsel have been deleted, as those organizations will not participate in the project.

(2) Page 24259: Two laboratories of the Office of Oceanic and Atmospheric Research (OAR) that were inadvertently listed have been deleted since they will not participate in the demonstration project. These are the Geophysical Fluid Dynamics Laboratory, in Princeton, New Jersey, and the Pacific Marine Environmental Laboratory, in Seattle, Washington. In addition, all of the locations for each of the participating laboratories have been listed.

(3) Page 24262: Table 3 has been changed to correct an error introduced by the printing process. Specifically the table has been corrected to show no GS–15 positions in the GS–1340 Meteorology Series and a total of 235 positions in this occupation.

(4) Page 24262: Mountain Administrative Support Center (MASC) has been deleted from Table 4, since MASC will not participate in the demonstration project.

(5) Page 24263: The definitions of the four career paths have been expanded for clarification.

(6) Page 24265: Paragraph B2(a) has been revised to restrict direct examination and the associated requirement for Applicant Supply Files to occupations for which there is documented evidence that skills are in short supply.

(7) The requirement for all employees in the Scientific and Engineering (ZP) Career Path to serve a three-year probationary period has been modified. The three-year probationary period will be applicable to only those ZP employees who are assigned to research and development positions as identified by the functional code assigned in conjunction with the classification process. All other ZP employees will serve a one-year probationary period. (For further explanation, see Section III(B)(10) *Probationary Period*.)

(8) Page 24266: The provisions for awarding performance-based RIF retention credit have been changed. An employee with an overall performance score in the top 20 percent (as opposed to the top 10 percent) of scores within a career path in a pay pool will be credited with 10 additional years of service for retention purposes.

(9) Page 24267: The demonstration project definition of ''supervisor'' has been clarified and expanded. Minimum criteria for classification of a position as ''supervisory'' have been included.

(10) Page 24267: The section ''Locality Pay'' has been clarified. Specifically, the sentence dealing with special rates and locality rates has been rewritten to indicate that for bands affected by special rates, the maximum rate will be the higher of the special rate *or* the locality rate, rather than the special rate *and* the locality rate.

(11) Page 24267: The policy on supervisory pay has been revised. Supervisors in the Scientific and Engineering (ZP) Career Path will not be eligible for immediate salary increases upon conversion to the demonstration project. Supervisors in all career paths will be eligible for salaries up to 6 percent higher than the maximum rates of their pay bands, and there will be no differentiation in the amount of the increase based on supervisory level.

Any employee who meets the demonstration project definition of ''supervisor'' will be eligible for the maximum increase of 6 percent, which may be reached through performance pay increases granted through the regular performance appraisal process.

(12) Page 24268: In the section entitled ''Pay Setting Upon Movement of an Employee to a Different Pay Area,'' the formula for determining the pay rate in the new area was printed incorrectly and has been corrected.

(13) Page 24274: The Project Evaluation Model has been revised to include the objective of ''Support for EEO and Diversity goals.''

(14) Page 24276: In the ''Project Management'' section, the role of the DoC Acting Chief Financial Officer/ Assistant Secretary for Administration (now the Director of the National Institute of Standards and Technology) as chairman has been clarified to show that the role is specific to the individual, who will serve as Chair of the DPMB through the first cycle of the project's operation. After the first cycle, chairmanship of the Board will be assumed by one of the members of the Board.

Janice R. Lachance,

Director.

Table of Contents

I. Executive Summary
II. Introduction
A. Purpose
B. Problems with the Present System
C. Changes Required/Expected Benefits
D. Participating Organizations
E. Participating Employees
F. Labor Participation
G. Project Design/Methodology
III. Personnel System Changes
A. Position Classification
B. Staffing
C. Reduction-in-Force
D. Pay Administration
E. Performance Evaluation and Rewards
IV. Conversion or Movement from a Project Position to a General Schedule Position
A. Grade-Setting Provisions
B. Pay-Setting Provisions
V. Budget Discipline
A. Reprogramming Costs
B. Base Cost Assessment
C. Funding Pools for Performance Pay Increases and Bonuses
D. Budget Monitoring
VI. Project Evaluation
VII. Project Management
VIII. Training
A. Manager and Supervisor Training
B. Employee Training
C. Support Staff Training
IX. Experimentation and Revision
X. Authorities and Waiver of Laws and Regulations Required

I. Executive Summary

This project was designed by the Department of Commerce with participation and review by the Office of Personnel Management (OPM). The demonstration project will pursue several key objectives of the National Performance Review: to simplify the current classification system for greater flexibility in classifying work and paying employees; to establish a performance management and rewards system for improving individual and organizational performance; and to improve recruiting and examining to attract highly qualified candidates and get new hires aboard faster. The duration of the project will be 5 years, except that the project may be extended by OPM if further testing and evaluation are warranted.

The proposed project will test whether the interventions of the NIST project can be successful in other environments. Other reasons for testing the NIST interventions in the Department are: (1) all of the diverse operating units in the proposed coverage are within the same Department, the U.S. Department of Commerce, which is also the parent agency of NIST; (2) several of the operating units in the proposed coverage have served for eight years as comparison sites for the NIST project; and (3) during the implementation and operation of the NIST project, DoC and NIST staff worked closely with the U.S. Department of Agriculture's National Finance Center, which provides personnel and payroll computing and database services to all of DoC, including NIST and the units proposed for the new project.

II. Introduction

A. Purpose

The purpose of the proposed project is to strengthen the contribution of human resources management in helping to achieve the missions of specific operating units of the Department of Commerce. The project conducted by NIST successfully demonstrated that certain innovative changes could improve human resources management in the NIST environment. The proposed project will test whether these same innovations will produce similarly successful results in other DoC environments.

B. Problems With the Present System

The Department of Commerce encourages, serves, and promotes the Nation's international trade, economic growth, and technological advancement. Within this framework, and in the interest of promoting the national interest through the encouragement of the competitive free enterprise system, the Department provides a wide variety of programs, some of which are included in the proposed coverage of the project.

The current system has three major impediments to a manager's ability to effectively manage human resources and shape the workforce: (1) Hiring restrictions, (2) an overly complex job classification system, and (3) poor tools for rewarding and motivating employees. These impediments, embedded in a system that does not assist managers in removing poor performers, build stagnation in the workforce and waste valuable time.

C. Changes Required/Expected Benefits

The innovations of the project and their objectives are:

1. Classification

Career paths will replace occupational groups, broad bands will replace grades, and Departmental broad-band standards will replace OPM classification standards. The classification system will be automated and classification authority will be delegated to line managers.

These changes are intended to simplify and speed up the classification process, make the process more serviceable and understandable, improve the effectiveness of classification decision-making and accountability, and facilitate pay for performance. Broad bands provide larger classification targets that can be defined by shorter, simpler, and more understandable classification standards. This simpler system will be easier to automate, will require fewer resources to operate, and will facilitate delegation to line managers.

By providing broader and more flexible pay ranges for setting entry pay, broad banding will provide hiring officials with an important tool for attracting high-quality candidates and thus contribute to the objective of increasing the quality of new hires.

By providing more flexible pay setting based on performance, broad banding will give managers the ability to increase the pay of good performers to higher and more competitive levels, thus improving the retention of good performers. At the same time, the potential for higher pay increases for good performance, supported by the broader pay ranges of broad banding, will contribute to the objective of improving organizational and individual performance.

2. Staffing

Staffing methods will include two that were implemented in the NIST

Demonstration Project and which are now available to all agencies through examining authority delegated by OPM. For the sake of simplification and to parallel the NIST Demonstration Project, they are retained with the same titles under the Department of Commerce Demonstration Project: Direct Examination and Agency-Based Staffing. In addition, there will be placements under Merit Assignment and various noncompetitive appointing authorities. OPM registers will not be used, but positions in occupations covered by the *Luevano* Consent Decree (Administrative Careers with America or successor programs) will be filled using OPM guidance. Other supplemental staffing tools will include such elements as paid advertising, flexible entry salaries, probation, local authority for recruiting and retention payments, and more flexible pay increases associated with promotion.

These changes are intended to attract high-quality candidates, speed up the recruiting and examining process, increase the effectiveness of the probationary review process, and increase the retention of good performers.

Agency-based staffing, supported by paid advertising, will allow hiring officials to focus on more relevant recruiting sources. Direct examination will allow managers to hire individuals with shortage skills as they find them, get them on board faster, and avoid the loss of good candidates who may grow impatient with a long hiring process, thus contributing to the objectives of increased quality of new hires and better fit between position requirements and candidate skills.

The three-year probationary period will help ensure that scientists and engineers who are retained beyond probation are capable of carrying out the full cycle of research and development (R&D) work, thus contributing to the objectives of high-quality hires and a high-performing workforce. (See Section III(B)(10) *Probationary Period*.) Local authority for recruiting and retention payments will provide extra incentives for hiring and retaining individuals with shortage skills, thus contributing to the objectives of increasing the quality of new hires, improving the fit between position requirements and individual qualifications, and improving the retention of good performers.

3. Pay

The most important change in pay administration is the introduction of pay for performance, which will govern individual pay progression within bands. Funds currently applied to within-grade increases, quality step increases, and promotions from one grade to a higher grade when both grades are now in the same band, will be used instead to grant performance-based pay increases within bands. The amount of the basic pay and locality pay increases approved by Congress and the President, however, will continue to be applied to pay schedules and to the salaries of employees with a performance rating of *Eligible*. Other pay tools are supervisory performance pay, flexible pay setting for new hires, and more flexible pay setting upon promotion.

Pay for performance promotes fairness through the peer ranking process and provides a motivational tool and a retention tool. As a motivational tool, the promise of higher pay increases for good performance encourages high achievement. As a retention tool, pay for performance allows the organization to quickly move the salaries of good performers to levels that are more competitive in the labor market.

Supervisory performance pay provides an incentive for supervisors, addressing the objective of improved individual and organizational performance. Supervisory performance pay also addresses the objective of improving retention by raising the pay of high-performing supervisors to more competitive levels.

Flexible pay setting for new hires is a recruiting tool that gives hiring officials greater flexibility to offer more competitive salaries to high-quality candidates, addressing the objective of improving the quality of new hires. The greater flexibility in setting pay upon promotion gives managers another retention tool to help retain top performers.

4. Performance Appraisal

The new system replaces the current five-level rating system with a two-level rating system, using *Unsatisfactory* and *Eligible* labels. (*Unsatisfactory* is equivalent to *Unacceptable*, as used in Part 430 of Title 5, Code of Federal Regulations.) The most important feature of the proposed performance appraisal system is that it is based on the application of a weighted 100-point scoring system linked to pay for performance. As in the current system, each employee has an individual performance plan composed of several performance elements (all of which are critical elements) that are measured with the 100-point scoring system in conjunction with the application of benchmark performance standards. Based on the resulting total scores, supervisors rank employees by performance within peer groups and grant performance pay increases according to the ranking. Highly ranked employees within a peer group receive relatively high pay increases and lower ranked employees receive relatively lower pay increases. Bonuses are granted at the discretion of the supervisor following the performance appraisal process.

The performance appraisal process is intended to (1) promote good performance; (2) encourage a continuing dialogue between supervisors and employees on organizational objectives, supervisory expectations, employee performance, employee needs for assistance and guidance, and employee development; and (3) provide a basis for performance-related decisions in employee development, pay, rewards, assignment, promotion, and retention. The system will more effectively communicate to employees how they are performing in relation to their peers, the rewards of good performance, and the consequences of poor performance.

Performance-based pay increases give an operating unit the ability to raise the pay of good performers more rapidly, thus improving retention of good performers. The potential for higher pay increases for good performance will encourage achievement and promote the objective of improved individual and organizational performance.

5. Performance Bonuses

In accordance with 5 CFR 451, at the end of the annual performance period, Rating Officials, with the approval of Pay Pool Managers, will have the opportunity to reward employee performance with bonuses up to $10,000. Bonuses address two objectives. First, rewarding achievement will make high achievers more likely to remain, thus improving retention of the best performers. Second, the potential for bonuses for achievement will encourage improved individual performance.

6. More Efficient Systems

The Department will improve the efficiency of human resource systems by streamlining procedures, reducing paperwork, and automating processes wherever possible.

7. Line Management Authority

Under the demonstration project, greater authority and accountability will be delegated to line managers. This delegation is intended to improve the effectiveness of human resources management by strengthening the role of line managers as the human resources managers of their units. The project will

be managed by the Departmental Personnel Management Board (DPMB). Through the first cycle, the Board will be chaired by the Director of the National Institute of Standards and Technology. Following that, one of the Board members will assume the role of Chairman. Each major operating unit will have its own Operating Personnel Management Board (OPMB) to manage and oversee local operations. (See the section on *Project Management*.)

D. Participating Organizations

The Department of Commerce encourages, serves, and promotes the Nation's international trade, economic growth, and technological advancement. Within this framework, and in the interest of promoting the national interest through the encouragement of the competitive free enterprise system, the Department provides a wide variety of programs, some of which are included in the proposed coverage. The following organizations will participate in the project:

Technology Administration (TA)

The Technology Administration, which oversees NIST and the National Technical Information Service (NTIS), was established by Congress in 1988 as the premier technology agency working with U.S. industry in improving competitiveness and increasing the impact of technology on economic growth. The TA coverage would include only the Office of the Under Secretary for Technology Administration and the Office of Technology Policy. This coverage would be an opportunity to apply broad banding principles to a policy, planning, and development environment dealing with issues vital to the future of the U.S. economy as it is affected by technology. TA offices in the proposed coverage are located at the DoC headquarters building in Washington, D.C.

The key occupations are: General Administration, Management Analyst, and General Business Specialist.

Bureau of Economic Analysis (BEA), Economics and Statistics Administration

BEA is responsible for providing a current picture of the U.S. economy through the preparation, development, and interpretation of the national income and product accounts showing the gross domestic product, business and other components of the national wealth accounts, industrial market interrelationships traced by the input-output accounts, and other accounts showing such economic indicators as personal income, foreign investment, and balance of payments. The bureau also develops surveys and other tools for analyzing and forecasting economic developments. This coverage provides a test of the NIST system in an environment that uses economists and accountants as analysts, reporters, and forecasters. BEA is located at 1441 L Street, N.W., Washington, D.C.

The economic analysis work of the organization is reflected in the following key occupations: Economist, Accountant, Financial Administrator, Computer Specialist, Statistician, and Statistical Assistant.

Institute for Telecommunication Sciences (ITS), National Telecommunications and Information Administration

ITS is a major component of the National Telecommunications and Information Administration (NTIA). ITS is the principal Federal telecommunications research and engineering laboratory. The Institute conducts telecommunications research in support of NTIA's responsibilities in advising the President on telecommunications and information policy; developing U.S. plans and policies in international forums; and developing policy for Federal use of the radio frequency spectrum. This application will test how well the NIST interventions work in a research and development (R&D) environment quite different from the NIST environment. ITS is located in Boulder, Colorado.

The ITS R&D work is carried out primarily by Electronics Engineers, with help from Mathematicians.

The remaining units are subunits of the National Oceanic and Atmospheric Administration (NOAA):

Office of Oceanic and Atmospheric Research (OAR)

OAR is the primary research and development unit of NOAA. OAR provides the science and technology to support improvements in NOAA services and address current and future problems. OAR conducts research programs in coastal, marine, atmospheric, and space sciences through its own laboratories and offices, as well as through networks of university-based programs. The work consists of research, modeling, and environmental observations relating to weather, climate, and environmental resources. The laboratory component of OAR is the Environmental Research Laboratories (ERL). ERL includes research laboratories in space environment, aeronomy, environmental technology, weather forecast systems, climate monitoring and diagnostics, severe storms, air resources, oceanography, and geophysical fluid dynamics. This diversity provides a rich new R&D environment for the testing of broad banding principles. OAR and ERL headquarters are located in Silver Spring, Maryland. All ERL laboratories will be included in the project, except the Great Lakes Environmental Research Laboratory (Ann Arbor, MI), the Geophysical Fluid Dynamics Laboratory (Princeton, NJ), and the Pacific Marine Environmental Laboratory (Seattle, WA). The project laboratories are:

Aeronomy Laboratory—Boulder, CO
Atlantic Oceanographic and Meteorology Laboratory—Miami, FL; Silver Spring, MD; San Diego, CA; Norfolk, VA; and Seattle, WA.
Air Resources Laboratory—Silver Spring, MD; Boulder, CO; Research Triangle Park, NC; Oak Ridge, TN; Las Vegas, NV; and Idaho Falls, ID
Climate Diagnostic Center—Boulder, CO
Climate Monitoring and Diagnostics Laboratory—Boulder, CO; Hilo, HI; Barrow, AK; Pago Pago, American Samoa; South Pole, Antarctica
Environmental Technology Laboratory—Boulder, CO Forecast Systems Laboratory—Boulder, CO National Severe Storms Laboratory—Norman, OK Space Environmental Laboratory—Boulder, CO

The dominant occupation within OAR is Meteorologist. Other key occupations are Physical Scientist, Physicist, Electronics Engineer, Computer Specialist, Electronics Technician, Physical Science Technician, and Mathematician.

National Environmental Satellite, Data, and Information Service (NESDIS)

NESDIS operates NOAA's satellites and ground facilities; collects, processes, and distributes remotely sensed data; conducts studies, plans new systems, and carries out the engineering required to develop and implement new or modified satellite systems; carries out research and development on satellite products and services; provides ocean data management and services to researchers and other users; and acquires, stores, and disseminates worldwide data related to solid earth geophysics, solar-terrestrial physics, and marine geology and geophysics. NESDIS provides both a technical operations environment and a new R&D environment for testing the NIST interventions. NESDIS headquarters and most of its offices are located in Suitland, Maryland. Ground stations are located at Wallops Island, Virginia, and Fairbanks, Alaska. The National Climatic Data Center is located

in Asheville, North Carolina. All of NESDIS will be included in the project, except for the Wallops Island ground station.

The key occupations within NESDIS are Physical Scientist, Meteorologist, Computer Specialist, Oceanographer, Physical Science Technician, Meteorological Technician, Electronics Engineer, Engineering Technician, Geophysicist, and Mathematician.

National Marine Fisheries Service (NMFS)

The mission of the National Marine Fisheries Service is the stewardship of living marine resources for the benefit of the Nation through their science-based conservation and management and promotion of the health of their environment. NMFS supports domestic and international conservation and management of living marine resources. The goals of NMFS are to rebuild and maintain sustainable fisheries, to promote the recovery of protected species, and to protect and maintain the health of coastal marine habitats. NMFS brings in a variety of work in the biological sciences never before addressed by broad banding principles.

In addition to the headquarters office in Silver Spring, Maryland, there are five regions, each of which consists of a Regional Office and a Fisheries Science Center. The regional offices are located in the following areas: Northeast (Gloucester, Massachusetts); Southeast (St. Petersburg, Florida); Northwest (Seattle, Washington); Southwest (Long Beach, California); and Alaska (Juneau). All the above units of NMFS will be included in the project except for the following: in Headquarters, the Office of Enforcement and the Inspection Services Division; and in the regions, the Fisheries Science Centers located in Woods Hole, Massachusetts; Miami, Florida; Seattle, Washington; La Jolla, California; and the Alaska Center located in Seattle, Washington.

NMFS is supported mainly by occupations in the biological sciences: Fish Biologist, Biologist, Microbiologist, and Biology Technician. Other important occupations are Chemist, Oceanographer, Wildlife Biologist, Computer Specialist, and General Business Specialist.

E. Participating Employees

The project covers all positions that would otherwise be in the General Schedule (GS) system. Wage Grade positions are not included.

Table 1 shows the total number of employees in each operating unit to be covered by the project. Table 2 lists the occupational series in which current positions are classified and shows the number of employees in each series. The OPM occupational series will be retained. The series are listed under the career path in which they will be placed. (See *Position Classification* for definitions of the four career paths.) Table 3 shows the number of covered employees in each series, by General Schedule grade.

TABLE 1.—NUMBER OF COVERED EMPLOYEES BY UNIT

Operating unit		Number
TA		35
BEA, ESA		414
ITS, NTIA		82
NOAA		2114
OAR	(640)	
NESDIS	(736)	
NMFS	(738)	
Total		2645

TABLE 2.—OCCUPATIONAL SERIES, BY CAREER PATH

Series	Title	Number
	Scientific and Engineering (ZP) Career Path	
101	Social Scientist	2
110	Economist	247
184	Sociologist*	1
190	Anthropologist*	1
334	Computer Specialist	267
401	Biologist	51
403	Microbiologist	4
408	Ecologist*	4
480	Fish Administrator*	43
482	Fish Biologist*	182
486	Wildlife Biologist*	2
499	Biological Science Student	1
701	Veterinary Medical Officer*	1
801	General Engineer	3
810	Civil Engineer	8
830	Mechanical Engineer	3
850	Electrical Engineer	1
854	Computer Engineer	2
855	Electronics Engineer	96
861	Aerospace Engineer*	1
899	Engineering Trainee	1
1301	Physical Scientist	198
1310	Physicist	71
1313	Geophysicist*	12
1315	Hydrologist*	1

TABLE 2.—OCCUPATIONAL SERIES, BY CAREER PATH—Continued

Series	Title	Number
1320	Chemist	23
1330	Astronomer	8
1340	Meteorologist*	226
1350	Geologist	2
1360	Oceanographer	77
1372	Geodesist	3
1382	Food Technologist*	2
1399	Physical Science Student	1
1515	Operations Research Analyst	1
1520	Mathematician	24
1529	Mathematical Statistician	1
1530	Statistician	13
1550	Computer Scientist	7
ZP	Total	1591
	Scientific and Engineering Technician (ZT) Career Path	
332	Computer Operator	3
392	Radio Frequency Technician	2
404	Biology Technician	9
802	Engineering Technician	28
856	Electronics Technician	22
1311	Physical Science Technician	79
1341	Meteorological Technician*	41
1531	Statistical Clerk/Assistant*	21
ZT	Total	205
	Administrative (ZA) Career Path	
130	Foreign Affairs Specialist*	11
131	International Relations Specialist*	7
260	Equal Employment Specialist	4
301	Miscellaneous Administration	77
340	Program Manager	2
341	Administrative Officer	22
342	Support Services Specialist*	3
343	Management Analyst	76
346	Logistics Management Specialist*	2
391	Telecommunications Specialist	1
501	Financial Administrator	10
510	Accountant	46
560	Budget Analyst	28
610	Nurse*	1
696	Consumer Safety Specialist*	1
930	Appeals Officer*	2
1001	General Arts and Information	3
1035	Public Affairs Specialist	6
1082	Writer/Editor	14
1083	Technical Writer/Editor	4
1084	Visual Information Specialist	7
1101	General Business Specialist	72
1140	Trade Specialist	8
1165	Loan Specialist*	16
1410	Librarian	13
1412	Technical Information Specialist	5
1654	Printing Manager	1
1670	Equipment Specialist	1
1712	Training Instructor*	1
1750	Instructional Systems Specialist*	1
ZA	Total	445
	Support (ZS) Career Path	
29	Environmental Protection Assistant*	1
303	Miscellaneous Clerk/Assistant	72
305	Mail and File Clerk	3
309	Correspondence Clerk/Assistant	1
318	Secretary	190
322	Clerk-Typist	2
326	Office Automation Clerk/Assistant	40
335	Computer Clerk/Assistant	43

TABLE 2.—OCCUPATIONAL SERIES, BY CAREER PATH—Continued

Series	Title	Number
344	Management Clerk/Assistant	5
399	Student Trainee	8
525	Accounting Technician	8
561	Budget Clerk/Assistant	3
963	Legal Instruments Examiner*	9
1087	Editorial Clerk/Assistant	1
1101	Trade Information/Financial Assistant*	7
1105	Purchasing Agent	4
1411	Library Technician	4
2005	Supply Clerk/Assistant	2
2102	Transportation Clerk/Assistant	1
ZS	Total	404

*These occupations were not tested by the NIST project.

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TABLE 3: COVERED EMPLOYEES, BY SERIES AND GRADE

Series	Grade															Total
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
029						1										1
101											1	1				2
110					1		15		17		27	80	45	37	25	247
130												1	5	4	1	11
131													2	4	1	7
184														1		1
190															1	1
260											1		3			4
301							2		11	1	17	11	8	13	14	77
303	4		3	1	14	12	28	7	2							72
305	1	1			1											3
309						1										1
318					17	69	59	31	13	1						190
322			1	1												2
326	2	3	4	7	17	5	2									40
332					1	1	1									3
334					1		7		17		46	87	72	33	4	267
335			2	3	6	8	11	5	4	3	1					43
340											1		1			2
341							3		2		5	8	3	1		22
342									1		1	1				3
343							7		7		10	15	20	12	5	76
344					1		1	1	2							5
346											2					2

Series	Grade															Total
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
391											1					1
392							1			1						2
399	4			3	1											8
401					1		2		7		6	18	11	3	3	51
403							2					1			1	4
404				3	6											9
408												1	1	1	1	4
480													8	20	15	43
482							2		11		29	69	50	18	3	182
486											1	1				2
499					1											1
501							1		1			7	1			10
510									3		8	19	8	7	1	46
525					3	4	1									8
560									6		7	3	7	3	2	28
561					1	1			1							3
610									1							1
696											1					1
701													1			1
801														1	2	3
802		2		1			1				1	23				28
810											1	5	2			8
830									1		1		1			3
850															1	1
854											1		1			2
855							1		4		10	17	34	16	14	96
856					1		1		2	3	7	8				22
861														1		1
899					1											1
930												1	1			2
963						4	4	1								9

Series	Grade															Total
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
1001									1			1	1			3
1035							1					2	3			6
1082									2		9	3				14
1083									1		1	1		1		4
1084							1		1		2	3				7
1087							1									1
1101						2	5		18		21	15	9	5	4	79
1105							3	1								4
1140												2	5		1	8
1165							1				10	2	2	1		16
1301							1		4		10	28	61	56	38	198
1310											1	10	16	23	21	71
1311			2	4		2	7	3	22	1	24	7	7			79
1313									1		1	2	2	4	2	12
1315												1				1
1320									2			6	6	7	2	23
1330												1	4	2	1	8
1340					1		1		5		8	60	75	50	26	226
1341				2		11	10	4	8	1	3	2				41
1350													1		1	2
1360									1		7	16	26	14	13	77
1372														1	2	3
1382											1		1			2
1399									1							1
1410									1		2	6	1	2	1	13
1411		1	2				1									4
1412									2		1		2			5
1515											1					1
1520									1		2	6	10	5		24
1529															1	1
1530							1		1		1	1	4	4	1	13

Series	Grade															Total
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
1531					1	1	6	1	9	2	1					21
1550											1		5	1		7
1654											1					1
1670												1				1
1712											1					1
1750											1					1
2005					1	1										2
2102							1									1
TOTAL	11	7	15	25	76	124	191	54	194	13	295	554	526	351	208	2645

BILLING CODE 6325–01–C

Senior Executive Service and ST–3104 Positions

The personnel systems for SES positions (see 5 U.S.C. 3131–3136 and 5 U.S.C. 5381–5385) will not change for the project. SES classification, staffing, compensation, performance appraisal, awards, and reduction-in-force will be based on standard SES methods. The personnel systems for ST–3104 positions (see 5 U.S.C. 3104 and 5376) will change only to the extent that ST–3104 positions are in the same performance appraisal, awards, and reduction-in-force systems as General Schedule positions. Classification, staffing, and compensation, however, will not change. Neither SES nor ST–3104 employees will be subject to the pro rata share payouts upon conversion to the demonstration project. Pay adjustments for their positions under the project will be carried out in accordance with existing Federal rules pertaining to SES and ST–3104 pay adjustments.

General Schedule Positions

All General Schedule (GS and GM) positions are incorporated in the new career path/pay band system. The within-grade increases of the General Schedule will be replaced by the annual performance pay increases. Except as otherwise provided in the project plan, laws and regulations pertaining to GS employees (e.g., overtime pay and cost-of living allowance provisions) continue in force for all project employees in the same way as they do for GS employees.

F. Labor Participation

All unions affected by the project are local units of the American Federation of Government Employees (AFGE). All of the AFGE representation is within the National Oceanic and Atmospheric Administration (NOAA). The following table shows the number of project employees represented by each union local.

TABLE 4.—BARGAINING UNIT COVERAGE

Operating unit	Location	Union local	Employees covered
NESDIS	Camp Springs, MD	AFGE 3680	118
	Asheville, NC	AFGE 146	146
NMFS	Silver Spring, MD	AFGE 2703	169
OAR	Research Triangle Park, NC	AFGE 3347	39

The project operating units provided numerous briefings on the project to employees and union representatives. Human resources representatives traveled to the various organizational locations to conduct three-hour information briefings. In addition, each bargaining unit covered was invited to send a representative to Boulder, Colorado, at management's cost to receive further information on the project and to interact with a panel of NIST managers and employees currently in the NIST project. The project operating units offered Impact and Implementation Bargaining to each of these unions on the conditions and provisions of the proposed project. All of the unions on the list have agreed to the project.

G. Project Design/Methodology

The project methodology is to introduce into selected DoC operating units certain innovations in human resources management, and to evaluate over time the effects of those innovations on the ability of the operating units to manage their human resources. The methodology includes the following steps:

1. Selection of Innovations: After review of the innovations tested at NIST, the Department has determined that all would have potential benefit in other DoC units and therefore should be included in the proposed project. These innovations, and the procedures associated with them, are described below under *Position Classification, Staffing, Reduction-in-Force, Pay Administration,* and *Performance Evaluation and Rewards.*

2. Selection of Operating Units: The Department has selected several operating units (See *Participating*

Organizations.) that will provide a useful test of whether the innovations successfully tested at NIST will produce similarly successful results in other environments.

3. Establishment of Goals and Objectives: The following section on *Goals and Objectives* describes the overall goals of the project and the objectives associated with each of the innovations.

4. Partnership: The Department has sought input on the proposal from each affected local union. (See *Labor Participation.*) The Department will also ensure that partnership in accordance with Executive Order 12871 continues to be an integral part of planning and implementation.

5. Baseline Evaluation: To provide a basis of comparison between employee opinions of the current system and their future opinions of the project system, each employee in the covered operating units will be asked to complete an opinion questionnaire on the current system prior to implementation of the project. To establish a baseline cost analysis, each operating unit will be required to analyze its personnel costs during fiscal years 1994, 1995, and 1996.

6. Training: The Department and the operating units will provide training to human resources staff, managers, and employees prior to implementation of the project and will provide additional training to managers on the pay-for-performance system prior to the end of the first performance cycle. (See *Training.*)

7. Implementation: To ensure a smooth implementation, the Department and the operating units will emphasize top management support; the development of detailed operating procedures prior to implementation; thorough training of managers and human resources office staff; step-by-step implementation planning; adequate backup systems, particularly in automated personnel and payroll systems; and sufficient operating resources.

8. Operation: The Department will exercise continual oversight, under the direction of the Departmental Personnel Management Board (See *Project Management.*) to ensure that project authorities and procedures are administered correctly.

9. Evaluation: The Department will arrange for an annual evaluation of the project under an OPM-approved evaluation plan. (See *Project Evaluation.*) The evaluation will be designed to determine whether the innovations are achieving the goals and objectives described in the following sections and are operating within acceptable cost limits. (See *Budget Discipline.*)

III. Personnel System Changes

A. Position Classification

1. Introduction

Career paths will replace occupational groups, broad bands will replace grades, and Departmental broad-band standards will replace OPM classification standards. The classification system will be automated, and classification authority will be delegated to line managers.

These changes are intended to simplify and speed up the classification process, make the process more serviceable and understandable, improve the effectiveness of classification decision-making and accountability, and facilitate pay for performance. Broad bands provide larger classification targets that can be defined by shorter, simpler, and more understandable classification standards. This simpler system will be easier to automate, will require fewer resources to operate, and will facilitate delegation to line managers.

By providing broader and more flexible pay ranges for setting entry pay, broad banding will provide hiring officials with an important tool for attracting high-quality candidates and thus will contribute to the objectives of increasing the quality of new hires and improving workforce performance.

By providing more flexible pay setting based on performance, broad banding will give managers the ability to increase the pay of good performers to higher and more competitive levels, thus improving the retention of good performers. At the same time, the promise of higher pay increases for good performance, supported by the broader pay ranges of broad banding, will contribute to the objective of improving organizational and individual performance.

2. Career Paths

A career path aggregates comparable occupations that have parallel career patterns and are suitable for similar treatment in staffing, classification, pay, and other personnel functions.

There are four career paths: (a) Scientific and Engineering (ZP): two-grade interval professional technical positions in the physical, engineering, biological, mathematical, computer and social science occupations; and student trainee positions in these disciplines.

(b) Scientific and Engineering Technician (ZT): one-grade interval positions support scientific and engineering activities through the application of various skills and techniques in the electrical, mechanical, physical science, biological, mathematical, and computer fields; and student trainee fields.

(c) Administrative (ZA): two-grade interval positions in such administrative and managerial fields as finance, procurement, personnel, librarianship, public information and program and management analysis; and student trainee positions in these fields.

(d) Support (ZS): one-grade interval positions that provide administrative support through the application of typing, clerical, secretarial, assistant, and similar knowledge and skills; positions that provide specialized facilities support, such as guards and firefighters; and student trainee positions in these areas.

3. Bands

Each career path is divided into five bands, which replace GS grades. The maximum rate of a band is step 10 of the highest GS grade in the band including locality rates in the 48 contiguous States and the District of Columbia. When a special rate for an occupation in the band is higher than the applicable locality rate, the Departmental Personnel Management Board will have to use the maximum applicable special rate to set the maximum rate of the band for specific occupations in certain geographical areas. (See Pay Administration.) For each regular band, there is a corresponding supervisory band for employees who receive supervisory performance pay. The supervisory band has the same minimum rate as the nonsupervisory band, but has a maximum rate 6 percent higher than the maximum rate of the nonsupervisory band. Positions in the supervisory band include positions that meet the DoC Demonstration Project definition of ''supervisor''. (See *Pay Administration.*) The following chart shows the four project career paths, the bands in each career path, and the relationship between bands and General Schedule grades.

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CHART 1: CAREER PATHS AND BANDS

CAREER PATHS	BANDS														
Scientific and Engineering (ZP)	I						II				III		IV		V
Scientific and Engineering Technician (ZT)	I				II				III		IV		V		
Administrative (ZA)	I						II				III		IV		V
Support (ZS)	I		II		III		IV		V						
GS Grades	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

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4. Occupational Series

The General Schedule occupational series will be retained. Existing OPM occupational series may be added or deleted in response to programmatic needs.

5. Classification Standards

Each classification standard will describe each band in two factors: (1) general duties and responsibilities and (2) knowledge, skills, and abilities. These two factors complement each other at each band in a career path and may not be separated in classifying a position. OPM classification standards will not be used.

6. Position Descriptions

Line managers will follow an automated menu-driven process to classify positions and produce position descriptions.

7. Delegation of Classification Authority

The Operating Personnel Management Boards (OPMBs) will oversee the delegation of classification authority to line managers. Under authority delegated by the DPMB, the Department's human resources staff will monitor and review classification decisions made by managers to ensure consistent and uniform application of classification policies and guidelines. Under this authority, the Department's Director for Human Resources Management will establish a plan to review the accuracy of classification decisions made by line managers and make periodic reports to the DPMB. A variety of approaches will be used to conduct classification reviews, such as regularly scheduled Departmental oversight reviews as well as ad hoc reviews conducted to address specific classification issues identified through data analysis, random sampling of classification actions, project evaluation reports, etc. The Governmentwide system of approval of SES and ST–3104 positions will be maintained.

8. Classification Appeals

An employee covered by the DoC Demonstration Project may appeal the career path (when the position is in a series that may be assigned to more than one career path, e.g., GS–1101), occupational series, or pay band of his or her position at any time. An employee wishing to formally appeal must first appeal to the Operating Unit (OU). If the employee is dissatisfied with the OU decision, he or she may appeal further to the Department level (DPMB or designee). The decision of the Department will be final.

Details pertaining to the classification appeals process are found in the project operating procedures.

B. Staffing

1. Introduction

The project operating units will use a variety of staffing methods to fill positions, including Direct Examination, Agency-Based Staffing, Merit Assignment, and various noncompetitive placements. Recruiting and examining will be carried out directly by the operating units except for positions covered by the *Luevano* Consent Decree. OPM registers will not be used. These methods will be supplemented by other staffing tools, such as paid advertising, flexible entry salaries, probation, recruitment and retention payments, and flexible pay increases associated with promotion. The Department will make necessary adjustments in response to future revisions in staffing statutes. These changes are intended to attract higher quality candidates, speed up the recruiting and examining process, increase the effectiveness of the probationary review process, and improve the retention of good performers.

Agency-based staffing, supported by paid advertising, will allow hiring officials to focus on more relevant recruiting sources. Direct examination will allow managers to hire individuals with shortage skills as they find them, get them on board faster, and avoid the loss of good candidates who may grow impatient with a long hiring process, thus contributing to the objectives of increasing the quality of new hires and improving the fit between position requirements and candidate skills. The three-year probationary period will help ensure that scientists and engineers who are retained beyond probation are capable of carrying out a full cycle of R&D work, thus contributing to the objectives of high-quality hires and a high-performing workforce (see Section III(B)(10)). Local authority for recruiting and retention payments will provide extra incentives for hiring and retaining individuals with shortage skills, thus contributing to the objectives of increasing the quality of new hires, improving the fit between position requirements and individual qualifications, and improving the retention of good performers.

2. Direct Examination

The project will apply two direct examination authorities: (a) Direct Examination: Critical Shortage Occupations and (b) Direct Examination: Critical Shortage Highly Qualified Candidates. These vacancies will normally be filled through direct recruiting by selecting officials, supplemented by a required search of the operating unit Applicant Supply File. Direct examination procedures are not exempt from the application of veteran preference rules.

(a) Direct Examination: Critical Shortage Occupations

Direct examination procedures will be used for categories of occupations that require skills that are in short supply. Included in this group are specific occupations in two categories listed in the Project Operating Procedures: (1) some occupations for which there is a special rate under the General Schedule pay system, and (2) some occupations at Pay Band III and above in the ZP Career Path. Any position in these shortage categories may be filled through direct examination procedures.

(b) Direct Examination: Critical Shortage Highly Qualified Candidates

Direct examination procedures will be used for additional positions for which there is a shortage of highly qualified candidates. Candidates for positions at Band I or II of the ZP Career Path who have a bachelor's degree with at least a 2.9 GPA (on a 4.0 scale) in a job-related major or a master's degree in a job-related field constitute a shortage category; candidates for positions at Band I of the ZT Career Path who have at least a 2.9 GPA in a job-related field during a minimum of at least 2 years in an accredited college, junior college, or technical institute constitute a shortage category; and candidates for positions at Band II of the ZT Career Path who have at least a 2.9 GPA in a job-related field in 4 years of college study constitute a shortage category.

3. Agency-Based Staffing

Agency-based staffing procedures will be used to fill vacancies not covered by direct examination or the project operating unit Merit Assignment Plan (MAP). Vacancies filled by agency-based procedures will be advertised at a minimum through the Governmentwide automated employment information system operated by OPM.

4. Merit Assignment Plan (MAP)

MAP procedures will be used to fill positions restricted to current or former Federal employees with competitive status. These plans will be amended to include any demonstration project flexibilities.

5. Applicant Supply Files

The operating units will advertise the availability of job opportunities in direct-examination occupations by continuous posting of an Applicant Supply Bulletin (that conforms with the requirements of 5 U.S.C. 3327) on the Governmentwide automated employment information system operated by OPM. The operating units will accept applications for this file on an open-continuous basis for all direct-hire authorities. Selecting officials will be able to recruit directly for applicants, but any applicants they find must compete with applicants who apply through the Applicant Supply Bulletin and other applicants whose applications are stored in the operating unit Applicant Supply File.

6. Referral Procedures for Direct Examination and Agency-Based Staffing Authorities

Either direct referral or rating and ranking will be used to refer applicants for vacancies under direct examination and agency-based staffing authorities.

(a) Direct referral

A qualified candidate may be referred directly without rating and ranking:

(1) When there are no more than three qualified candidates and no preference eligibles; or

(2) If the candidate is a preference eligible with a compensable Service-connected disability of 10 percent or more. (These preference eligibles are given absolute preference except when the position is at Band III or above in the Scientific and Engineering Career Path.) Selecting officials may choose any of these preference eligibles when more than one are referred.

(b) Rating and ranking

Rating and ranking (including veteran preference and ''rule-of-three'' procedures) will be used when the list of qualified candidates contains:

(1) More than three candidates; or

(2) Two or more candidates including at least one preference eligible (except when direct referral of a 10-point veteran is made under (a)(2) above).

7. Priority Placement

All Department of Commerce and OPM priority placement programs will be followed.

8. Paid Advertising

Paid advertising may be used as one of the first steps in recruitment without having to first try unpaid methods.

9. Private Sector Temporaries

Private sector temporary help services may be used as appropriate.

10. Probationary Period

Probation under the project will follow current law and regulations, except for employees in the Scientific and Engineering (ZP) Career Path performing research and development (R&D) work. ZP employees performing R&D work will be required to serve a probationary period of three years, except that a supervisor may end the probationary period of a subordinate R&D employee at any time after one year. Near the end of the first year of the R&D employee's probationary period, the supervisor will be required to decide whether to: (1) change the employee from probationary status to non-probationary status; (2) remove the employee; or (3) continue the employee on probation. If the employee is continued on probation, the supervisor must select from the same options near the end of the second year of probation. If probation is continued into the third year, the supervisor must make a final decision on whether to retain or remove the employee near the end of the third and final year of probation.

The purpose of the three-year probationary period for scientists and engineers performing R&D work is to allow a hiring official to view the full cycle of a research assignment before

making a final decision on retaining the employee. The one-year probationary period is insufficient to cover the full cycle of research and development from assignment of a research project to publication of results. For other positions, the one-year probationary period is adequate.

11. Qualification Standards

The qualifications required for placement within a band and within a career path will be based on the OPM Qualification Standards for General Schedule Positions, except that testing requirements will not be used and the Superior Academic Criterion will be defined as a 2.9 GPA (on a 4.0 scale). The minimum qualifications for the occupation and for the GS grade corresponding to the lowest grade in the band will apply. The DPMB may authorize new or modified qualification standards based on current practices in the scientific, engineering, and computer science fields and to reflect modern curricula in recognized degree programs.

12. Recruitment and Retention Payments

The project operating units may grant recruiting and retention payments in appropriate circumstances, not to exceed $10,000 or 25 percent of basic pay, whichever is greater. Decisions on allowances will be based on market factors such as salary comparability and salary offer issues, relocation and dislocation issues, programmatic urgency, emerging technologies, turnover rates, special qualifications, and shortage categories or scarcity of positions unique to the operating unit. All scientific, engineering, and other hard-to-fill positions will be eligible. Recruitment and retention payments will not be considered part of basic pay.

13. Travel Expenses

Travel and transportation expenses, advancement of funds, per diem expenses incident to travel, and/or relocation expenses may be provided to new hires in the same manner as is authorized in sections 5723, 5724, 5724a, 5724b, and 5724c of title 5, U.S. Code. Recipients must sign service agreements indicating commitment to at least 12 months of continued service.

14. Promotion

A promotion is a change of an employee to (1) a higher band in the same career path, or (2) a band in another career path in combination with an increase in pay. To be eligible for promotion, an employee must have a current performance rating of *Eligible*. The time-in-band requirement for promotion eligibility is 52 weeks, with two exceptions: (1) an employee may be promoted from Band I to Band II in the Support Career Path without time restriction; and (2) an employee may be promoted from Band II to Band III in the Support Career Path without time restriction if the employee was not promoted from a Band I to a Band II position during the previous 52 weeks. (For pay provisions related to promotion, see *Pay Administration*.)

C. Reduction-in-force

1. Introduction

The project operating units will follow reduction-in-force procedures contained in law and regulation, except that career path will be added to the definition of competitive areas, retention credit for performance will be based on performance ranking, and grades will be converted to bands for the purpose of interpreting reduction-in-force regulations.

The objective of the link between career paths and competitive areas is to improve the fit between the skills of displaced employees and the positions they are offered through reduction-in-force procedures. The objective of the link between performance and retention standing is to continue to make performance a factor in retention during reduction-in-force.

2. Competitive Areas

Each of the four career paths in each project operating unit local commuting area will be a separate competitive area—separate from the other career paths and separate from the competitive areas of other operating unit employees.

3. Link Between Performance and Retention

An employee with an overall performance score in the top 20 percent of scores within a career path in a pay pool (See *Performance Evaluation and Rewards* below.) will be credited with 10 additional years of service for retention purposes. The total credit will be based on the employee's three most recent annual performance scores received during the 4-year period prior to an established cutoff date, for a potential total credit of 30 years. Career status and veteran preference will continue to have the same effect on retention standing as they now have under current regulations. No performance-related retention credit will convert to this system from any other performance appraisal system.

4. Link Between Bands and Grades

OPM reduction-in-force regulations on assignment rights (5 CFR 351.701) will be applied to the project by substituting ''one band'' for ''three grades'' and ''two bands'' for ''five grades.''

D. Pay Administration

1. Introduction

The most important change in pay administration is the introduction of pay for performance, which will govern individual pay progression within bands. The amount of the basic pay and locality pay increases approved by Congress and the President will continue to be applied to pay schedules and employee salaries, with the variations described below. Other pay tools are supervisory performance pay, flexible pay setting for new hires, and more flexible pay setting upon promotion.

Pay for performance promotes fairness and provides a motivational tool and a retention tool. It is fair that higher achievement should produce higher rewards. In particular, the quality work that arises from a commitment to the goals and objectives of the organization should be rewarded by higher pay increases. As a motivational tool, the promise of higher pay increases for good performance encourages high achievement. As a retention tool, pay for performance allows the organization to more quickly move the salaries of good performers to levels that are more competitive in the labor market.

Supervisory performance pay provides an extra performance incentive for supervisors, addressing the objective of improved individual and organizational performance. Supervisory performance pay also addresses the objective of improving retention by raising the pay of high-performing supervisors to more competitive levels. Flexible pay setting for new hires is a recruiting tool that gives hiring officials greater flexibility to offer more competitive salaries to high-quality candidates, addressing the objective of improving the quality of new hires. The greater flexibility in setting pay upon promotion gives managers another retention tool to help retain top performers.

2. Pay for Performance

Pay for performance has three components: (a) the annual adjustment to basic pay, which includes the annual general increase and the locality pay increase; (b) annual performance pay increases; and (c) bonuses. The first component, the annual adjustment to

basic pay, is set according to the subsections referring to general and locality increases. The second component, performance pay increases, is set according to the procedures under *Performance Evaluation and Rewards.* The third component, bonuses, is managed in accordance with the subsection on *Performance Bonuses* under *Performance Evaluation and Rewards.*

3. Placement in a Lower Band

An employee whose performance rating is *Unsatisfactory* does not receive the annual adjustment to basic pay. Because the minimum pay rate for each band is increased each year by the amount of the annual adjustment to basic pay, it is possible that the new minimum rate of a band will exceed the basic pay of an employee in that band who does not receive the annual adjustment to basic pay due to unsatisfactory performance. When this happens, the employee is placed in the next lower band. This placement shall not be considered an adverse action under 5 U.S.C. 7512, nor shall grade (i.e., band) retention under 5 U.S.C. 5362 be applicable.

4. Supervisory Performance Pay

Employees who meet the demonstration project definition of ''supervisor'' will be eligible for supervisory performance pay. Positions that require incumbents to spend 25 percent or more of their time performing all of the following duties will be titled ''supervisory'' for classification and other official purposes and will be eligible for supervisory performance pay.

1. Assign and review work daily, weekly, or monthly;
2. Assure that production and accuracy requirements are met;
3. Approve leave;
4. Evaluate work performance of subordinates; and
5. Exercise at least four of the following authorities and responsibilities: (a) plan work to be accomplished by subordinates, set and adjust short-term priorities, and prepare schedules for completion of work; (b) assign work to subordinates based on priorities, selective consideration of the difficulty and requirements of assignments, and the capabilities of employees; (c) give advice, counsel, or instruction to employees on both work and administrative matters; (d) interview candidates for positions in the unit and recommend appointment, promotion, or reassignment to such positions; (e) hear and resolve complaints from employees, referring group grievances and more serious unresolved complaints to a higher level supervisor or manager; (f) effect minor disciplinary measures, such as warnings and reprimands, recommending other action in more serious cases; (g) identify developmental and training needs of employees, providing or arranging for needed development and training; (h) find ways to improve production or increase the quality of the work developed; and (i) develop performance standards.

Supervisory performance pay will be considered a part of basic pay. Upon conversion to the project, all eligible supervisory positions will be placed in the supervisory bands. The incumbents of these positions will be converted at their basic pay (including special rates or locality pay) at the time of conversion. New hires into supervisory positions after the date of conversion will have their pay set at the supervisor's discretion within the pay range of the applicable supervisory band.

Supervisors in all career paths will be eligible for salaries up to 6 percent higher than the maximum rate of their pay bands. The amount by which a supervisor's pay exceeds the maximum rate of the band constitutes supervisory performance pay. The higher salaries shall be reached through performance pay increases granted through the regular performance appraisal cycle.

The payment of supervisory performance pay is not considered a promotion or a competitive action. Supervisory performance pay will be canceled when an employee's supervisory responsibilities are discontinued. The cancellation of supervisory pay does not constitute an adverse action, and there is no right of appeal under 5 U.S.C. Chapter 75. Pay retention under 5 U.S.C. 5363 is not applicable. Before entering a supervisory position, an employee will be required to sign a statement certifying that the employee understands that the supervisory pay will be canceled when the employee ceases to be a supervisor.

5. Pay and Compensation Ceilings

The maximum rate for a band (excluding special bands established to allow for supervisory performance pay) will be equal to the maximum rate— GS rate, locality rate, or special rate, as applicable—payable to GS employees for the grades corresponding to the band. An employee's basic pay may not exceed the maximum rate of the employee's band (including a supervisory band), except for employees receiving retained rates of pay.

An employee's rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for Level IV of the Executive Schedule. An employee's aggregate monetary compensation for a calendar year may not exceed the basic rate of pay for Level I of the Executive Schedule, as required by 5 U.S.C. 5307 and OPM regulations in Subpart B of 5 CFR 530.

6. Locality Pay

Locality pay is implemented as basic pay for all purposes except as otherwise provided in this plan. The locality adjustment will be applied to the minimum and maximum rates of each band, as applicable. For bands affected by special rates, the maximum rate will be the higher of the special rate or the locality rate. A locality adjustment may be applied to an eligible employee's basic pay only to the extent that it does not cause the employee's basic pay to exceed the maximum rate of the band.

7. Special Salary Rates

When appropriate, special salary rates will be used to determine employees' maximum pay rates in lieu of the normal pay band ceilings. The provisions of current regulations (5 CFR 530.303) will be followed to determine the appropriateness of special salary rates. As provided for under these regulations, special salary rates will be restricted to occupations and/or geographic locations for which there is an existing or likely difficulty in the recruitment or retention of well-qualified personnel.

8. Effect of General and Locality Pay Increases on Bands

The minimum and maximum rates of each band will be increased at the time of a general pay increase under 5 U.S.C. 5303 and/or a locality pay increase under 5 U.S.C. 5304 or 5304a so that they equal the new locality-adjusted minimum and maximum rates of the grades corresponding to the band. The maximum rates of bands set according to special rates, however, may exceed this amount to the extent necessary to equal the 10th step of the appropriate special rate scale if that rate is higher.

9. Effect of General and Locality Pay Increases on Individual Pay

Only employees with a current annual performance rating of record of *Eligible* may receive an increase in their basic pay at the time of band adjustments. This increase in basic pay will reflect any applicable general and/or locality pay increase for General Schedule employees. The increase in basic pay for eligible employees whose basic pay is at

the ceiling of their band will equal the increase in the ceiling.

The basic pay increase for eligible employees whose basic pay is below the ceiling of their band will be calculated by applying two factors to the employee's rate of pay. One factor is the general increase factor representing the increase in General Schedule rates under 5 U.S.C. 5303 (e.g., 1.02 if the general increase is 2 percent). The second factor is the locality pay increase factor, which is derived by dividing the newly applicable locality pay percentage factor by the formerly applicable locality pay percentage factor. (For example, if the locality payment percentage for an area increased from 4.23 percent to 5.48 percent, the locality pay increase factor would be 1.0548 divided by 1.0423, or approximately 1.012.) Thus, the new rate of basic pay would be calculated using the following formula:

$$\text{new pay rate} = \text{general increase factor} \times \frac{1 + \text{newly applicable locality pay percentage}}{1 + \text{formerly applicable locality pay percentage}} \times \text{former pay rate}$$

However, a basic pay increase will be applied only to the extent that it does not cause an employee's basic pay to exceed the ceiling of the applicable band.

10. Basic Pay

Employees covered by the project will not have separate basic pay rates and locality pay rates, as do General Schedule employees. Project basic pay rates will be basic pay for all purposes, except as specifically provided in the demonstration project plan.

11. Pay Setting Upon Promotion

The new basic pay rate upon promotion may be set at any level in the new band (If the move is to a different career path, any band in the new career path would be considered a ''new band.''), except that the minimum pay increase upon promotion is 6 percent. OPMBs will establish operating unit guidelines and delegate approval authority for setting pay levels for promotions.

12. Pay Setting for New Hires

The setting of initial salaries within bands for new appointees will be flexible, particularly for hard-to-fill positions in the Scientific and Engineering Career Path. OPMBs will establish operating unit guidelines and delegate approval authority for setting pay levels for new hires.

13. Conversion of Employees From the General Schedule to the Demonstration Project

For employees being converted from the GS pay system to the demonstration project, GS grades will translate directly to the project's career path and band structure. Employees will be converted at their current highest rate under the GS pay system (i.e., highest of locality rate or special rate or similar rate) at the time of conversion. No one's salary will be reduced as a result of the conversion. When conversion of an employee into the project is accompanied by a geographic move, the employee's GS pay entitlements (including any locality rate or special rate) in the new area will be determined before converting the employee's pay to the demonstration project pay system.

At the time of conversion, each converted employee will be given a lump-sum cash payment for the time credited to the employee toward what would have been the employee's next within-grade increase. The payment for a General Schedule employee will be computed by (1) calculating the ratio of (a) the number of days the employee will have spent in the employee's current rate through the day prior to the day of conversion, to (b) the total number of days in the employee's current waiting period for a regular within-grade increase (364, 728, or 1092 days), and (2) multiplying that ratio by the dollar value of the employee's next within-grade increase, as in effect at the time of conversion.

14. Movement of GS Employees From Other Organizations to the Demonstration Project

GS employees can move into the project from other organizations through transfer, reassignment, promotion, or new appointment. When the movement is by lateral transfer or lateral reassignment, the employee's GS grade will translate directly to the project's career path/band structure, and the employee's rate of basic pay under the demonstration project will equal his or her current highest rate under the GS pay system (i.e., highest of locality rate or special rate or similar rate). When a lateral transfer or lateral reassignment is accompanied by a geographic move, the employee's GS pay entitlements (including any locality rate or special rate) in the new area will be determined before converting the employee's pay to the demonstration project pay system. When the movement is by new appointment, promotion, reassignment with pay adjustment (through merit assignment plan competition), or transfer to ''higher grade'' (i.e., to a band higher than the band that corresponds to the employee's current GS grade), the new pay rate is set according to project pay setting flexibilities for new hires and promotions.

15. Pay Setting Upon Movement of an Employee to a Different Pay Area

Employees who move (voluntarily or involuntarily) from one geographic area to another within their operating unit will have their pay adjusted to account for any change in the band maximum rates between the two areas. This adjustment ensures that the employee's relative position in the band (measured as a percentage of the band maximum rate) will be maintained upon movement. The pay rate in the new area will be derived using the following formula:

$$\text{new pay rate} = \text{former pay rate} \times \frac{\text{pay band maximum rate after movement}}{\text{pay band maximum rate before movement}}$$

The new pay rate is calculated before any other simultaneous pay action (e.g., general pay adjustment or promotion effective on the same date). Any reduction in pay solely attributable to a movement from one pay area to a lower-paying area shall not be considered a reduction in basic pay under the adverse action provisions of 5 U.S.C. 7512(4) or under the pay retention provisions of 5 U.S.C. 5363. (The employee retains the right to grieve or file a complaint regarding a geographic reassignment if there is an allegation of

a violation of nondiscrimination statutes or a prohibited personnel practice.)

16. Severance Pay

OPM severance pay regulations (5 CFR 550.703) will be applied to the project by substituting ''one band'' for ''two grades'' and ''two grades or pay levels.''

17. Grade and Pay Retention

Grade and pay retention will follow current law and regulations, except as allowed by specific waiver (e.g., ''career path and band'' for ''grade''). Specific waivers are listed in the section entitled, *Authorities and Waiver of Laws and Regulations Required.*

E. Performance Evaluation and Rewards

1. Introduction

The most important feature of the performance evaluation system is that it is based on the application of a weighted 100-point scoring system in support of pay for performance. As in the current system, each employee has an individual performance plan composed of several performance elements. Through application of benchmark performance standards and a 100-point scoring system, supervisors rank employees by performance within peer groups and grant performance pay increases according to the ranking. Highly ranked employees within a peer group receive relatively high pay increases and lower ranked employees receive relatively lower pay increases.

The performance appraisal process is intended to (1) promote good performance; (2) encourage a continuing dialogue between supervisors and employees on organizational objectives, supervisory expectations, employee performance, employee needs for assistance and guidance, and employee development; and (3) provide a basis for performance-related decisions in employee development, pay, rewards, assignment, promotion, and retention. The system will more effectively communicate to employees how they are performing in relation to their peers, the rewards for good performance, and the consequences of poor performance.

Performance-based pay increases give an operating unit the ability to raise the pay of good performers more rapidly, thus improving retention of good performers. The promise of higher pay increases for good performance will encourage achievement and promote the objective of improved individual and organizational performance.

2. Coverage

All employees covered by the project will be covered by the project performance evaluation and rewards system, except that the Departmental Personnel Management Board may remove from the system any position not filled by career or career conditional appointment. ST–3104 employees will have their performance evaluated under the structure of the performance evaluation system and may receive bonuses, but do not receive performance pay increases. Members of the Senior Executive Service will remain under the non-demonstration DoC SES performance appraisal, pay, and bonus system.

Upon conversion to the demonstration project, any administrative action already initiated under a previous appraisal program will continue to be processed in accordance with the requirements and procedures of the program in effect when the action was initiated.

3. Performance Cycle

The performance year begins October 1 and ends September 30. The stages of the performance cycle are performance planning, performance review, performance appraisal, and performance-related decisions.

4. Performance Plans

Performance plans will be developed each year by supervisors with input from employees. Critical performance elements will be established for each position. (All elements are critical.) The supervisor weights each element so that the total weight of all elements is 100 points. Benchmark performance standards define the range of performance. A supervisor may add supplemental standards to a performance plan to further elaborate on the benchmark performance standards.

5. Mid-Year Review

A required mid-year review addresses mid-year accomplishments, performance successes and deficiencies, and any need for performance plan modifications. Additional reviews may be held as needed.

6. Performance Appraisal

Performance appraisals bring supervisors and employees together to discuss performance and accomplishments during the performance year. The appraisals lead to decisions by supervisors and Pay Pool Managers on performance scores, performance ratings, performance pay increases, and bonuses. Performance appraisal is scheduled for the final weeks of the performance year. However, at any time of the year, a supervisor may determine that an employee's performance is not satisfactory on one or more critical elements and place the employee on a Performance Improvement Plan.

7. Performance Ratings

The demonstration project performance ratings of record are *Eligible* (for performance pay increase, bonus, and annual adjustment to basic pay) and *Unsatisfactory*. The *Eligible* rating of record covers the same performance range as the former ratings of Marginal, Fully Successful, Commendable, and Outstanding. *Unsatisfactory* covers the same performance range as the former ratings of Unsatisfactory and Unacceptable. An employee whose performance is not satisfactory is placed on a performance improvement plan and given an opportunity to improve before a final rating of record is assigned.

8. Performance Scores

Each element is evaluated individually against the benchmark performance standards and any supplemental standards. If a single element in an employee's plan is rated *Unsatisfactory*, the rating of record is *Unsatisfactory* and there is no performance score. If all elements meet at least the minimally acceptable benchmark, the rating of record is *Eligible*. Rating Officials score the performance of employees rated *Eligible* on a 100-point scale, which corresponds to the 100-point element weighted scale. An individual element score may be as high as the weight of that element. The total performance score is the sum of the element scores. A perfect score on each element would produce a total score of 100 points.

9. Performance Ranking

Employees are ranked, by performance score, within a peer group. A peer group may involve no more than one career path, but may be otherwise organized by any combination of organization, occupation, band, or appointment type. Rating Officials rank their own employees, then Pay Pool Managers interleave the rankings of subordinate Rating Officials to produce peer group rankings at the pay pool level. A Pay Pool Manager is a line manager who manages his or her organization's pay increase and bonus funds and has final decision authority over the performance scores, performance pay increases, and bonuses of subordinate employees.

10. Performance Pay Decisions

The Performance Pay Table divides each band into three segments or

intervals. Each interval is linked to a range of potential percentage pay increases beginning at zero and progressing to a maximum percentage pay increase. The maximum performance pay increase an employee may receive, therefore, depends on the interval into which the employee's salary falls. The Pay Pool Manager makes a performance pay decision for each employee in a peer group, based on the Pay Pool Manager's ranking and the pay increase ranges in the Performance Pay Table. Within a peer group, an employee may not receive a higher proportion-of-range than a higher-ranking employee or a lower proportion-of-range than a lower-ranking employee. Proportion-of-range is the percentage of the maximum pay increase allowed for a particular interval of a pay band, i.e., a percent of a percent. For example, if the pay increase range for the pay interval is 0–12 percent, and the employee receives a 9 percent increase, that employee receives a proportion-of-range that equals 75 percent of the maximum 12 percent.

11. Performance Bonuses

Bonuses are the only cash awards directly linked to the project performance appraisal system, and are awarded at the end of the performance year in conjunction with decisions on performance pay increases. A Pay Pool Manager may award a bonus to any employee with an *Eligible* rating. The OPMBs will determine the bonus authority to be delegated to their pay pool managers.

Bonuses address two objectives. First, the ability to reward the accomplishments of good performers will make them more likely to remain, thus improving the retention of high achievers. Second, the promise of bonuses for achievement will encourage improved individual performance.

12. Action Based on Unsatisfactory Performance

If, after an opportunity to improve, an employee's performance is still not satisfactory, the operating unit will give a rating of *Unsatisfactory* and must take action to reassign or remove the employee, or place the employee in a lower band, in accordance with performance action provisions in law and regulation.

IV. Conversion or Movement From a Project Position to a General Schedule Position

If a DoC Demonstration Project employee moves to a General Schedule position, the following procedures will be used to convert the employee's project pay band to an equivalent GS grade and the employee's project rate of pay to an equivalent GS rate of pay. The converted GS grade and rates of pay must be determined before movement out of the project and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments and lateral transfers, the converted GS grade and rates of pay will become the employee's actual GS grade and rates of pay, unless immediately affected by a simultaneous geographic movement or another pay action. For non-lateral transfers, promotions, and other actions, the converted GS grade and rates of pay will be deemed to be the employee's grade and rates of pay at the time of movement out of the project and will be used in applying applicable pay setting rules (e.g., promotion rules.)

A. Grade-Setting Provisions

An employee in a band corresponding to a single GS grade is converted to that grade. An employee in a band corresponding to two or more grades is converted to one of those grades according to the following rules:

1. The employee's project basic rate of pay is compared with step 4 rates in the highest applicable GS rate range (including a rate range in the GS base schedule, a rate range in the applicable locality rate schedule, or a rate range in a special rate schedule for the employee's occupation). If the series is a two-grade interval series, only odd-numbered grades are considered below GS–11.

2. If the employee's pay rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade.

3. If the employee's pay rate is lower than the applicable step 4 rate of the highest grade, the pay rate is compared with the step 4 rate of the second highest grade in the employee's band. If the employee's pay rate equals or exceeds step 4 of the second highest grade, the employee is converted to that grade.

4. This process is repeated for each successively lower grade in the band until a grade is found in which the employee's rate of basic pay equals or exceeds the applicable step 4 rate of the grade. The employee is then converted at that grade. If the employee's rate of pay is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.

5. Exceptions: (1) If the employee's pay rate exceeds the maximum rate of the grade assigned under the above-described ''step 4'' rule but fits in the rate range for the next higher applicable grade in the band (i.e., between step 1 and step 4), then the employee shall be converted to that next higher applicable grade; (2) An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer in the project unless since that time the employee has undergone a reduction in band; (3) In Band I of the ZP and ZA Career Paths, students without a bachelor's degree or comparable experience are converted no higher than GS–4.

B. Pay-Setting Provisions

An employee's pay within the converted GS grade is set by converting the project rate to GS pay rates in accordance with the following rules:

1. The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement out of the demonstration project.

2. An employee's project rate is converted to a rate on the highest applicable rate range for the converted GS grade (including a rate range in the GS base schedule, a rate range in the applicable locality rate schedule, or a rate range in a special rate schedule for the employee's occupation).

3. If the highest applicable rate range is a locality pay rate range, the project rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS rate of basic pay is the GS base rate corresponding to the converted GS locality rate (i.e., same step position). (If this employee is also covered by a special rate schedule as a GS employee, the converted special rate will be determined based on the GS step position. This underlying special rate will be basic pay for certain purposes for which the employee's higher locality rate is not basic pay.)

4. If the highest applicable rate range is a special rate range, the project rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS rate of basic pay will be the GS rate corresponding to the converted special rate (i.e., same step position).

5. Exception: If an employee's project rate exceeds the maximum rate of the highest applicable rate range upon conversion to the General Schedule, the affected employee's project rate will be converted to a retained rate under 5 U.S.C. 5363. If an employee is entitled to a special rate under the General Schedule, the project rate is converted

directly to a retained rate. If an employee is only entitled to locality pay under the General Schedule, the retained rate is derived by dividing the project rate by the applicable locality pay factor (i.e., 1 plus the locality payment percentage). Thus, the locality-adjusted retained rate will equal the project rate the employee had been receiving before conversion. Since the employee's total rate of pay is not reduced upon conversion, this change to converted rates under the General Schedule will not be considered a reduction in basic pay under 5 U.S.C. 5363 or 7512.

6. After conversion or movement out of the demonstration project, an employee's converted GS rates will be used in applying GS pay administration rules, as necessary, in lieu of using his or her demonstration project rate. Thus, for example, the converted GS rate of basic pay (or converted special rate, if applicable) will be used in applying GS rules for promotions, maximum payable rate determinations, and pay retention, as appropriate. For conversions upon termination of the project and for lateral reassignments, the converted GS rates will become the employee's GS rates immediately after movement out of the demonstration project (before processing any accompanying geographic move).

C. Equivalent Increase Determination

Service under the demonstration project is creditable for within-grade increase purposes upon conversion back to the GS pay system. Performance pay increases (including a zero increase) under the demonstration project are equivalent increases for the purpose of determining the commencement of a within-grade increase waiting period under 5 CFR 531.405(b).

V. Budget Discipline

Each project operating unit will maintain compensation during the project at the level it would have reached under the current system. Current costs will be reallocated to cover project costs. To ensure appropriate carryover of costs from pre-project to project years, a base assessment will be made using three base years: Fiscal Years 1994, 1995, and 1996. Budget discipline will be required and achieved by imposing specific funding principles (described in detail in the section on Funding Pools for Performance Pay Increases and Bonuses). Finally, both longitudinal and site comparisons will be used to ensure that spending remains within acceptable limits.

A. Reprogramming Costs

The following actions and their costs will be eliminated by the new system:

1. Promotions from one grade to a higher grade where both grades are now in the same broad band. For example, because Band III of both the ZP and ZA career paths will cover the same pay range as current grades GS–11 and GS–12, there will be no more promotions from GS–11 to GS–12.

2. Regularly scheduled Within-Grade Increases and Quality Step Increases. There are no steps in the broad band system. These actions will be eliminated.

3. Cash awards related to the performance appraisal cycle. (These funds will be applied to bonus pools only—not to pay pools).

The cost savings from eliminating these actions will be used to finance the following new actions:

—Performance-based pay increases within bands, including the ability to increase the pay of supervisors, through performance-based pay increases, to a higher level than under the current system. There is no guaranteed performance pay increase in the proposed system, however, for *Eligible* performance; and

—Performance bonuses.

B. Base Cost Assessment

In order to determine whether project costs are being maintained at acceptable levels, a base assessment of pre-project costs will be needed. Costs will be computed as annual averages over three pre-project years: Fiscal Years 1994, 1995, and 1996. The costs of all personnel actions of types that are being replaced by project systems will be totaled and averaged.

C. Funding Pools for Performance Pay Increases and Bonuses

The results of the base cost assessment will provide a basis for: (1) setting maximum spending limits; and (2) constructing performance pay increase and bonus funding pools by organization, career path, band, and salary. Performance pay pools for project employees will be subject to the same budgetary constraints and reductions imposed on other Department funding allocations. Neither allocations nor authorizations convey funding. Therefore, managers will be required to make payout decisions tied to their individual budgets, within allocations. The following principles will be observed:

1. In terms of career paths and bands, costs will be kept for the most part where they are found in the base assessment. That is, base costs for promotions, within-grade increases, and cash awards in a particular band and career path will form the basis for project spending in the same band and career path.

2. Formulas will be devised to authorize pay increase and bonus pools up to the limits calculated from base-year spending. For each pool, the authorized spending ceiling will depend on the number of employees in the pool by career path, band, and salary.

3. No allocation will be placed in performance pay increase pools for employees who are not eligible for a performance pay increase, such as those who have insufficient time in the position to be rated and those whose salaries are at the ceilings of their bands. No money will be placed in bonus pools for employees not eligible for a bonus, such as those not eligible for a performance rating or who are not on the payroll the last day of the performance cycle.

4. The potential size of performance pay increases will be relatively high for employees whose salaries are near the minimum rate of the band and relatively low for those whose salaries are near the maximum rate of the band. This arrangement imposes a reduced rate of salary increases as an individual advances in the band, similar to the reduced rate of within-grade increases in a General Schedule grade imposed by the one-year, two-year, and three-year waiting periods.

5. There will be no guaranteed performance pay increase in the proposed system. An employee with an *Eligible* performance rating may, if ranked at or near the bottom of a peer group, get no performance pay increase.

6. Although Pay Pool Managers will not be allowed, under normal circumstances, to exceed their allocated pay increase and bonus pools, they will be allowed to spend less than the full amounts of their pools.

7. Funds previously used to pay cash awards will be applied to bonus pools only—not to performance pay pools.

D. Budget Monitoring

These procedures permit changes in operating unit expenditures which result from legislatively mandated program changes and changes in Federal pay and benefits. The operating units may offset selected salary increases with savings by reducing turnover, eliminating unnecessary overhead, and cutting other personnel costs.

The operating units will measure their adherence to cost control by preparing budget estimates based on prescribed Federal budget processes and

monitoring actual spending under the project against these budget estimates. Two cost comparisons will be used:

1. Longitudinal Comparisons

a. Project costs will be calculated on an established schedule.

b. Costs will be compared against the spending limits calculated from the base years to ensure that budget limitations are not being exceeded.

c. Each year, the funding of the performance pay increase and bonus pools will be used as an opportunity to ''balance the books.'' That is, the funding of the pools will be limited to the amount that is judged to maintain budget discipline.

2. Site Comparisons

a. A number of non-project units will be selected from within the Department to serve as comparison sites. The comparison sites will be selected to reflect, as nearly as possible, the missions and workforces of the project units.

b. Periodically, the rate of increase in salaries in the project units will be compared to the rate of increase in salaries in the comparison units.

c. When it is found that salaries in project units are outpacing salaries in comparison units, and the differences cannot be explained by non-project variables, appropriate adjustments will be made in project funding.

VI. Project Evaluation

The Department will arrange for annual evaluations of the project under an OPM-approved evaluation plan. The evaluation will be designed to determine whether the interventions are achieving the goals and objectives of the project within acceptable cost limits. (See *Costs*.)

The following table lays out the project evaluation model, beginning with and flowing from the objectives that the project is designed to achieve. The *Objectives* column and the *Interventions* column together serve as the project hypotheses; i.e., the hypotheses to be tested are that the objectives will be achieved by the interventions linked to them. Most objectives are linked to more than one intervention. Each intervention is associated with at least one expected result. The *Measures* column lists means by which actual results will be measured. Other measures of results may be used in order to fully evaluate the hypotheses. The *Data Sources* column shows where data required for the measurements can be found.

A hypothesis will be supported—that is, the intervention will be deemed to have achieved the objective—when actual results are found to match expected results. Tests of hypotheses will be made by comparing results to appropriately defined comparison groups.

TABLE 5.—PROJECT EVALUATION MODEL

Objectives	Interventions	Expected results	Measures	Data sources
Increased quality of new hires; improved fit between position requirements and individual qualifications; greater likelihood of getting a highly qualified candidate.	Agency-Based Staffing	Hiring officials will be able to focus on more relevant recruiting sources and avoid losing candidates who grow impatient with long hiring processes.	• Hiring officials' judgments of the improvement in the quality of new hires. • Hiring officials' judgments of improvements in the fit of qualifications of new hires. • Rate of acceptance of offers.	• Interviews with hiring officials. • Focus groups. • HRM office records on offers and acceptances. • Periodic employee/supervisor surveys. • Exit interviews.
	Direct Examination	For skill areas in which well qualified individuals are hard to find, managers will be able to hire good candidates as they find them, thus avoiding the loss of well qualified individuals through delays.	• Hiring officials' judgments of the improvement in the quality of new hires. • Hiring officials' judgments of improvements in the fit of qualifications of new hires. • Rate of acceptance of offers.	• Interviews with hiring officials. • Focus groups. • HRM office records on offers and acceptances. • Periodic employee/supervisor surveys.
	Broad-band Classification System, in conjunction with Flexible Entry Salaries.	Broad bands and flexible entry salaries within bands provide a more competitive range of entry salaries for managers to use in negotiating with candidates, thus increasing the ability to hire highly qualified candidates.	• Hiring officials' judgments of the improvement in the quality of new hires. • Hiring officials' judgments of improvements in the fit of qualifications of new hires. • Rate of acceptance of offers.	• Interviews with hiring officials. • Focus groups. • HRM office records on offers and acceptances. • Periodic employee/supervisor surveys.
	More Flexible Paid Advertising.	Managers will be able to make greater use of paid advertising, thus expanding the scope of recruiting efforts or focusing the recruitment effort on specialized sources.	Number of selections resulting from paid advertising.	HRM office records.

TABLE 5.—PROJECT EVALUATION MODEL—Continued

Objectives	Interventions	Expected results	Measures	Data sources
	3-Year Probationary Period for Scientists and Engineers.	Greater likelihood that scientists and engineers who are retained after probation will be capable of the full range of R&D functions.	Number of scientists and engineers released during probation after the first year.	• Automated history file data. • HRM office records.
	Local Authority for Recruitment Payments.	The ability of managers to grant recruitment payments during negotiations with highly qualified candidates will increase competitiveness.	Number of selections made for which the recruitment payment was instrumental in attracting the candidate.	• HRM office records. • Interviews with hiring officials. • Focus groups.
Increased retention of good performers.	Broad-Band Classification System.	Broad-banding gives an operating unit the ability to raise the pay of good performers to higher and *more competitive levels,* thus improving retention of good performers.	Turnover rates among good performers. Turnover rates of low performers.	Automated history file data.
	Performance-Based Pay Increases.	Performance-based pay increases give an operating unit the ability to raise the pay of good performers *more rapidly,* thus improving retention of good performers.	Turnover rates among good performers.	• Automated history file data. • Interviews with hiring officials. • Focus groups.
	Bonuses	The ability to reward the accomplishments of good performers will make them more likely to remain.	Turnover rates compared to size of bonus.	Automated history file data.
	Local Authority for Retention Payments.	The ability of managers to grant retention payments will improve their ability to retain employees in critical skill areas in a job-related course of study.	A count of the instances in which a retention payment is instrumental in retaining an employee who would otherwise have left.	• HRM office records. • Interviews with hiring officials. • Focus groups.
	Supervisory Performance Pay.	The ability to raise the pay of high-performance supervisors to higher levels will make their salaries more competitive, improving retention.	Turnover rates among supervisors in relation to pay and performance.	Automated history file data.
	More Flexible Pay Increase Upon Promotion.	Flexible pay increases upon promotion gives an operating unit the ability to raise the pay of high-performing employees and employees in critical skill areas to higher and *more competitive levels,* thus improving their retention.	Turnover rates in relation to pay and performance.	Automated history file data.
Improved individual and organizational performance.	Two-Level, 100-Point, Peer Group Performance Appraisal System.	This system will more effectively communicate to employees how they are performing in relation to their peers, the consequences of poor performance, and the rewards for good performance.	Judgments of Pay Pool Managers, Rating Officials, and Employees.	• Interviews with hiring officials. • Periodic employee/supervisor surveys. • Focus groups.
	Pay Increases Linked to Performance.	The promise of higher pay increases for high achievement will encourage improved performance.	Judgments of managers, supervisors, and employees.	• Periodic employee/supervisor surveys. • Focus groups.

TABLE 5.—PROJECT EVALUATION MODEL—Continued

Objectives	Interventions	Expected results	Measures	Data sources
	Supervisory Performance Pay.	The promise of higher pay levels for effective supervision will encourage improved supervisory performance.	Judgments of higher-level managers.	• Management interviews.
	Bonuses Linked to Performance.	The promise of bonuses for good performance will encourage improved performance.	Judgments of managers, supervisors, and employees.	• Periodic employee/supervisor surveys. • Focus groups.
	Hiring interventions (listed above).	By improving the quality of new hires, the hiring interventions will gradually produce a higher-performing workforce.	Judgments of managers and supervisors.	• Interviews with hiring officials. • Focus groups.
	Retention Interventions (listed above).	By improving the retention of good performers, the quality of the workforce will be higher than it otherwise would be.	Judgments of managers and supervisors.	• Interviews with hiring officials. • Focus groups.
More effective human resources management.	Broad-Band Classification	The broad-band classification system will be simpler to use, more understandable to managers and employees, and more accurate.	Judgments of managers, supervisors, and employees.	• Interviews with managers. • Periodic employee/supervisor surveys.
More effective human resources management (cont.)	Delegated Classification Authority to Managers.	Line managers understand the organizational mission and the work related to the mission and are therefore better prepared to classify the work.	Judgments of managers and supervisors.	• Interviews with hiring officials. • Periodic employee/supervisor surveys. Focus groups.
	Delegated Pay Authority to Managers.	Line managers are in a better position to understand the labor market forces related to the work they manage and will therefore be more effective pay mangers.	Judgments of managers and supervisors.	• Interviews with hiring officials. • Focus groups.
More efficient human resources management.	Automated Broad-Band Classification System.	The broad-band classification system will be simpler, faster, easier to automate, require fewer resources to operate, and involve fewer classification decisions.	• Judgments of managers and supervisors. • Time required to produce position descriptions and classify positions. • Number of classification decisions.	• Interviews with hiring officials. • Periodic employee/supervisor surveys. • Focus groups. • HRM office records. • Automated history file.
Support for EEO/Diversity goals in recruiting, rewarding, paying, and retaining minorities; providing opportunities for a diverse workforce; and in maximizing contributions of all employees.	Hiring Interventions (listed above).	Managers will be able to hire good minority candidates as they find them, thus avoiding the loss of well qualified minorities through delays.	• Increases in the numbers of minorities hired.	• HRM and EEO records on offers and acceptances.
	Performance-Based Pay Increases.	Performance-based pay increases give an operating unit the ability to raise the pay of good performers.	Comparisons between pay of minorities and non-minorities.	• HRM records.
	Bonuses	The ability to reward good performers will allow managers to more easily recognize the performance of minorities.	Comparisons between the bonuses received by minorities and non-minorities.	• HRM records.

TABLE 5.—PROJECT EVALUATION MODEL—Continued

Objectives	Interventions	Expected results	Measures	Data sources
	Pay Interventions (listed above).	Supervisory pay bands, flexible pay increases upon promotion, and flexible entry salaries will allow managers greater flexibilities in paying minorities at competitive salaries.	Comparisons between the salaries of minorities and non-minorities.	• HRM records.
	Retention Interventions (listed above).	Broad-banding, flexibilities in setting pay, performance pay increases, and bonuses, will make it easier for supervisors to retain good performing minorities.	Turnover rates of minorities in relation to pay for performance.	• Automated history file data/EEO records.

VII. Project Management

The Office of Personnel Management will oversee the project under its demonstration project authority in 5 U.S.C. 4703. The DoC Departmental Personnel Management Board will manage the project at the Department level. Each major operating unit will have its own Operating Personnel Management Board to oversee local operations.

The Director of NIST will chair the Departmental Personnel Management Board through the first cycle. After the first cycle, chairmanship of the Board will be assumed by one of the members of the Board. The DPMB members will be senior managers of the operating units in the project. The DoC Director for Human Resources Management will serve as Executive Secretary. Each OPMB will typically be chaired by the senior manager designated to serve on the DPMB. The operating units will appoint other key managers to their boards as they think appropriate.

The following table lists the separate responsibilities of these three bodies.

TABLE 6.—PROJECT AUTHORITIES

Arena	Project authorities		
	OPM	DPMB	OPMB
General	• Final approval authority for the Project Plan, operating procedures, and any future changes to the plan or operating procedures.	• Approval authority within the Department for the Project Plan and operating procedures. • Approval authority within the Department for proposing changes in the Project Plan or operating procedures to OPM. • Monitoring the success of project interventions so as to propose appropriate mid-course corrections to OPM. • Setting project policies within the parameters of the Project Plan and operating procedures. • Delegating authority to OPMBs, including the withdrawal of authority when warranted. • Exercising the authority to make exceptions to normal project procedures on a case-by-case basis when it believes an exception is warranted (the OPMBs will not have this authority). • Assuring adequate resources for designing, implementing, and operating the project. • Establishing a training plan to train managers, employees, and support staff in project policies and procedures.	• Establishing operating unit project guidelines within the Project Plan, operating procedures, and DPMB policies. • Management of authorities outlined below and any additional athorities delegated by the DPMB. • Delegating authority to managers within the operating unit, including the withdrawal of authority when warranted. • Assuring adequate resources for implementing and operating the project within the operating unit. • Overseeing training of operating unit managers, employees, and support staff in project policies and procedures.

TABLE 6.—PROJECT AUTHORITIES—Continued

Arena	Project authorities		
	OPM	DPMB	OPMB
Position Classification	• Approval of the project Classification Interventions.	• Setting project classification policy within the Project Plan and operating procedures. • Approving automated classification systems and classification standards.	• Establishing operating unit classification guidelines within the Project Plan, operating procedures, and DPMB policies. • Delegating classification authority to operating unit managers. • Establishing career ladders. • Ensuring proper classification of positions within the operating unit. • Resolving issues in operating unit classifications. • Approving or delegating the approval of new specialty descriptors.
Staffing	• Approval of the project Staffing Interventions.	• Approving project staffing policies. • Establishing policy and criteria for recruiting and retention payments.	• Establishing operating unit staffing guidelines within the Project Plan, operating procedures, and DPMB policies. • Approving or delegating the approval of individual recruiting and retention payments. • Establishing career ladders. • Approving use of recruiting services. • Delegating and overseeing use of paid advertising. • Overseeing the application of the three-year probationary period. • Establishing operating unit practices on vacancy distribution, opening timeframes, and similar local issues.
Reduction in Force	• Approval of the project reduction-in-force Interventions.	• Approving project reduction-in-force policies.	• Establishing operating unit reduction-in-force guidelines within the Project Plan, operating procedures, and DPMB policies. • Establishing procedures on operating unit competitive levels. • Establishing guidelines for, and overseeing, reductions in force within the operating unit.
Pay Administration	• Approval of the project Pay Administration Interventions.	• Approving project pay administration and pay for performance polices. • Approving project pay tables .... • Approving performance pay increase ranges. • Approving automated performance pay increase systems. • Approving formulas used to develop performance pay increase pools.	• Establishing operating unit pay guidelines within the Project Plan, operating procedures, and DPMB policies. • Establishing operating unit performance pay increase pools. • Establishing operating unit guidelines and delegating approval authorities for setting pay levels for new hires and promotions.
Performance Evaluation	• Approval of the project Performance Evaluation Interventions. • •	• Approving project performance evaluation policies. • Approving project-wide forms for performance plans and appraisals and for recording outcomes. • •	• Establishing operating unit performance evaluation guidelines within the Project Plan, operating procedures, and DPMB policies. • Overseeing the operating unit annual performance appraisal process, from development of plans to individual pay increases and bonuses. • Establishing operating unit guidelines on performance elements. • Delegating rating, review, and pay pool management authorities.

TABLE 6.—PROJECT AUTHORITIES—Continued

Arena	Project authorities		
	OPM	DPMB	OPMB
Bonuses	• Approval of the project Bonus Interventions.	• Approving project bonus policies. • Delegating bonus limits to OPMBs.	• Establishing operating unit bonus guidelines within the Project Plan, operating procedures, and DPMB policies. • Delegating bonus limits to pay pool managers. • Establishing operating unit bonus pools.
Costs and Budget Discipline	• Approval of the project cost plan.	• Approving project budget policies.	• Establishing and overseeing operating unit budget procedures. • Assuring operating unit budget discipline. • Designating pay pool managers. • Establishing and overseeing the use of operating unit performance pay increase and bonus pools.
Project Evaluation	• Approval of the project Evaluation Model. • Approval of evaluation reports	• Approving the approach for selecting an evaluator to carry out the annual project evaluation. • Assuring adequate resources for project evaluation. • Approving project policies for internal Departmental assessments.	• Overseeing and assuring operating unit participation in project evaluations, including data collection, focus group participation by operating unit employees, and availability of managers for interviews. • Approving objectives and procedures for internal operating unit assessments.

VIII. Training

The project operating units will schedule training for managers, supervisors, employees, and support staff.

A. Manager and Supervisor Training

The operating units will give managers and supervisors general training in the overall features of the project and specific hands-on training in the new authorities they are to exercise. Computer training facilities will be used to teach managers and supervisors how to use the automated classification system to produce position descriptions. The classification training will emphasize principles of project classification, such as the classification logic embedded in the automated classification system, career path coverage criteria, occupational series definitions and coverage, proper classification by bands in accordance with project classification standards, sound titling practices, and economic and effective position management.

Managers and supervisors will also be given specific training in performance appraisal and pay for performance. A key part of this training will be a simulation of the performance evaluation and rewards system prior to the actual end-of-year performance evaluation. Prior to the simulation, each Rating Official and Pay Pool Manager will be trained in the automated performance pay increase system. During the simulation, Rating Officials and Pay Pool Managers will carry out the appraisal, scoring, rating, and performance pay increase process just as they would at the end of a performance year, but for training purposes only. The results will not be official and will not be communicated to employees. This training exercise was used in the first year of the NIST project and was found to be an effective approach to revealing and correcting problems and misunderstandings prior to the real end-of-year process.

B. Employee Training

Through general presentations, handouts, and direct training from supervisors, employees will be given an understanding of project systems and how those systems affect them.

In the general presentations scheduled for everyone covered by the project, employees will be led through all project systems, from classification to pay administration to pay for performance. As each system is presented, it will be contrasted with the General Schedule system so employees can see how the system is changing and how the changes affect them. The presentations will also cover employee rights and grievance procedures. Employees will be given ample opportunity to ask questions at the presentations and will be given the names and numbers of individuals to call if they have questions later.

In addition to the general presentations that will be scheduled for all employees, supervisors will be instructed to pass along more individualized information about the system in conjunction with the implementation of those systems. For example, at the time supervisors give employees their new project position descriptions, the supervisors will explain the position descriptions, the process that produced them, and the process for keeping them current. Also, at the time of the performance appraisal simulation, supervisors will explain to employees how they fit into the performance scoring and peer-group ranking process and how the process leads to decisions on performance pay increases.

C. Support Staff Training

There are three categories of support staff: (1) Personnel specialists in the various HRM offices serving project operating units; (2) budget specialists in operating unit budget offices assigned to monitor and advise on budget discipline issues and specifically to assist in

establishing performance pay increase and bonus pools; and (3) administrative officers in the operating units, who will assist in processing personnel actions, distributing local performance pay increase and bonus pools, and electronically transmitting Pay Pool Manager decisions to the automated payroll system.

Two of the HRM offices that will serve project operating units have served the NIST Demonstration Project since its implementation in 1988. These two offices will help train personnel specialists in the other HRM offices. Budget specialists in the operating units, besides receiving the general employee training, will receive advice from a NIST budget specialist and will receive further training on the distribution of performance pay increase and bonus pools during the simulation of the performance evaluation and rewards system. Administrative officers will be invited to take part in the supervisory training sessions and will also receive further training during the simulation of the performance evaluation and rewards system.

IX. Experimentation and Revision

Many aspects of a demonstration project are experimental. Modifications must be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. The DPMB, with OPM approval, will authorize minor modifications, such as changes in the occupational series in a career path, without further notice. Major changes, such as a change in the number of career paths, will require OPM approval and will be published in the **Federal Register.**

X. Authorities and Waiver of Laws and Regulations Required

The following waivers of law and regulation are necessary:

Title 5, U.S. Code

Section 3308 Competitive Service; examinations, educational requirements prohibited; exceptions

Section 3502(a)(4) Order of retention

(Waiver is applicable to allow the use of ''performance scores'' in lieu of ''efficiency or performance ratings.'')

Chapter 51 Classification

Section 5303 Annual adjustments to pay schedules

Section 5304 Locality-based comparability payments

Section 5305 Special Pay Authority

Subchapter III of chapter 53 General Schedule Pay Rates

Subchapter VI of chapter 53 Grade and Pay Retention

(Waiver is applicable only to allow the following modifications: (1) Using bands in lieu of grades; (2) providing no band retention if reduction in band is caused by employee's pay being exceeded by band minimum rate; (3) providing no pay retention upon reduction in pay caused solely by geographic movement; (4) providing no pay retention upon conversion to the General Schedule as long as the employee's total rate of pay is not reduced; and (5) providing no pay retention upon cancellation of supervisory performance pay).

Section 5753–5754 Recruitment and relocation bonuses; Retention allowances (except that relocation bonuses under Section 5753 continue to apply)

Section 7512(3) Actions covered

(Waiver is applicable only to use bands in lieu of grades and to exclude from section 7512(3) reductions in band not accompanied by a reduction in pay, due to the employee's pay being exceeded by the band minimum rate.)

Section 7512(4) Actions covered

(Waiver is applicable only to allow the following modifications: (1) Exclude reductions in pay that are solely due to recomputation upon geographic movement; (2) exclude conversions to GS pay that do not result in a reduction in the employee's total rate of pay; and (3) exclude reductions in pay due to the cancellation of supervisory performance pay.)

Title 5, Code of Federal Regulations

Section 315.801 Probationary period; when required

(Waived only for research and development positions in the Scientific and Engineering Career path).

Section 315.802 Length of probationary period

(Waived only for positions in the Scientific and Engineering Career path).

Section 351.401 Determining retention standing

Section 351.402 Competitive area in RIF

Section 351.403 Competitive level in RIF

Section 351.504 Credit for performance

Section 351.701 Assignment involving displacement

Part 511 Classification under the General Schedule

Part 530 Subpart C, Special salary rate schedules

Part 531 Pay under the General Schedule

Part 536 Grade and Pay Retention

(Waived only to allow the following modifications: (1) Using bands in lieu of grades; (2) providing no band retention if reduction in band is caused by employee's pay being exceeded by band minimum rate; (3) providing no pay retention upon reduction in pay caused solely by geographic movement; (4) providing no pay retention upon conversion to the General Schedule as long as the employee's total rate of pay is not reduced; and (5) providing no pay retention upon cancellation of supervisory performance pay.)

Section 550.703 Definition of reasonable offer

(Waiver is applicable only to allow substitution of (1) ''one band'' for ''two grade or pay levels'' and ''two grades'' and (2) ''band'' for ''grade.'')

Part 575, Subpart A, Recruitment bonuses

Part 575, Subpart C, Retention allowances

Section 752.401(a)(3) Coverage, Reductions in grade

(Waiver is applicable only to use bands in lieu of grades and to exclude reductions in band not accompanied by a reduction in pay due to the employee's pay being exceeded by the band minimum rate.)

Section 752.401(a)(4) Coverage, Reductions in pay

(Waiver is applicable only to exclude reductions in pay that are solely due to recomputation upon geographic movement; (2) exclude conversions to GS pay that do not result in a reduction in the employee's total rate of pay; and (3) exclude reductions in pay due to the cancellation of supervisory performance pay.)

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Part III

Environmental Protection Agency

40 CFR Part 799

Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42187L; FRL–5742–2]

RIN 2070–AC76

Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amended proposed rule; extension of comment period.

SUMMARY: EPA is amending the proposed rule issued under section 4(a) of the Toxic Substances Control Act (TSCA) (61 FR 33178, June 26, 1996) that would require manufacturers and processors to test those hazardous air pollutants (HAPs) specified in the proposal for certain health effects. Under this amended HAPs test rule proposal (''amended HAPs proposal''), EPA would require that testing be conducted using eleven TSCA health effects test guidelines issued by EPA on August 15, 1997 (62 FR 43820), codified at 40 CFR part 799, subpart H, instead of the eleven OPPTS draft harmonized test guidelines cross-referenced in the June 26, 1996 proposed rule. The Agency is soliciting comments on the application of these part 799 test guidelines to the amended proposed HAPs test rule. In addition, the Agency is amending the proposed HAPs test rule by removing the testing requirements for phenol; specifying export notification requirements; reviewing the status of the proposals for enforceable consent agreements (ECAs) for pharmacokinetics (PK) studies submitted by industry; revising the economic assessment; including additional support documents in the rulemaking record; and describing other changes and clarifications to the proposed test rule. In addition, EPA is inviting ECA proposals for all of the HAPs chemicals for which PK proposals have not been received to provide for alternative testing to meet the requirements contained in the proposed HAPs test rule, as amended in this notice.

EPA is also extending the public comment period in order to provide interested individuals with sufficient time to consider the effects of the newly promulgated TSCA test guidelines referenced in enforceable test standards in this amended HAPs proposal, the economic assessment for this amendment, and other changes described in this action, and to comment accordingly.

DATES: Written comments on this proposed rule must be received by EPA on or before February 9, 1998. The public comment period on the June 26, 1996 proposed rule is being extended from January 9, 1998 to February 9, 1998.

ADDRESSES: Submit three copies of written comments on the proposed HAPs test rule, as amended, identified by document control number (OPPTS–42187A; FRL–4869–1) to: U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics (OPPT), Document Control Office (7407), Rm. G–099, 401 M St., SW., Washington, DC 20460. See Unit V. of this preamble for further instructions.

Comments and data may also be submitted electronically to oppt.ncic@epamail.epa.gov. Follow the instructions under Unit V. of this document. No confidential business information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For general information: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404; TDD: (202) 554–0551; e–mail: TSCA–Hotline@epamail.epa.gov. For technical information contact: Richard W. Leukroth, Jr. , Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460; telephone: (202) 260–0321; fax: (202) 260–8850; e-mail: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 1996 (61 FR 33178), EPA issued a proposed test rule for the following hazardous air pollutant chemicals that would require health effects testing to be conducted using eleven draft harmonized test guidelines developed by EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS): 1,1'-biphenyl (CAS No. 92–52–4), carbonyl sulfide (CAS No. 463–58–1), chlorine (CAS No. 7782–50–5), chlorobenzene CAS No. 108–90–7), chloroprene (CAS No. 126–99–8), *ortho*-cresol (CAS No. 95–48–7), *meta*-cresol (CAS No. 108–39–4), *para*-cresol (CAS No. 106–44–5), diethanolamine (CAS No. 111–42–2), ethylbenzene (CAS No. 100–41–4), ethylene dichloride (CAS No. 107–06–2), ethylene glycol (CAS No. 107–21–1), hydrochloric acid (CAS No. 7647–01–0), hydrogen fluoride (CAS No. 7664–39–3), maleic anhydride (CAS No. 108–31–6), methyl isobutyl ketone (CAS No. 108–10–1), methyl methacrylate (CAS No. 80–62–6), naphthalene (CAS No. 91–20–3), phenol (CAS No. 108–95–2), phthalic anhydride (CAS No. 85–44–9), 1,2,4–trichlorobenzene (CAS No. 120–82–1), 1,1,2-trichloroethane (CAS No. 79–00–5), and vinylidene chloride (CAS No. 75–35–4).

The Agency also offered to consider the use of PK and other mechanistic data as a means to permit route-to-route extrapolation of data from the existing chemical data base as an alternative to conducting some or all of the testing that would be required under the proposed HAPs test rule. Since this original proposal, EPA has promulgated eleven new TSCA health effects test guidelines, received eight ECA proposals for PK studies and prepared preliminary technical analyses for each of these PK proposals, and updated the economic assessment in light of the changes to the guidelines that are explained in this amended HAPs test rule proposal. In addition, EPA has identified needed changes and clarifications to the proposed HAPs test rule. This action amends the original HAPs proposal to include these changes and clarifications.

For all aspects of the original HAPs test rule proposal that are not addressed by this amended proposal, the discussion in the preamble of the original HAPs test rule proposal continues to apply.

Table of Contents

I. Background
II. TSCA Test Guidelines for HAPs Chemicals
A. Background to Test Guidelines Used in this Amendment
B. Summary of Basic Testing Requirement Changes Proposed by this Amendment
III. Changes and Clarifications
A. Phenol—Removal of Testing Requirements
B. Export Notification Requirements
C. Persons Required to Test
D. Testing Subject to GLP Requirements
E. Cresols—Clarification of Test Substances
F. Use of Acute and Non-Acute Data in Residual Risk Determinations
G. Submission of Equivalence Data
H. Other Changes to Regulatory Text
IV. Status of Proposals for Pharmacokinetics Studies and Other Proposals for Enforceable Consent Agreements and Orders
A. Proposals for PK Studies
B. Other Proposals for ECAs
C. The ECA Negotiation Process
V. Public Record and Electronic Submissions
VI. Regulatory Assessment Requirements
A. Economic Assessment

B. Executive Order 12866 and Executive Order 12898; Unfunded Mandates Reform Act
C. Regulatory Flexibility Act
D. Paperwork Reduction Act
E. Executive Order 13045

I. Background

On June 26, 1996 (61 FR 33178), EPA proposed, under TSCA section 4(a), 15 U.S.C. 2603(a), the testing of 21 HAPs for certain health effects (the ''original HAPs test rule proposal''). The proposal also invited the submission of proposals for enforceable consent agreements (ECAs) for the HAPs chemicals which would include pharmacokinetics (PK) studies (61 FR 33178, 33189). On September 11, 1996 (61 FR 47853) (FRL–5395–9), EPA announced a public meeting on the proposed HAPs test rule. The public meeting was held on October 1, 1996; a transcript of the meeting is included in the record for this rulemaking. In response to requests from industry, on October 2, 1996, EPA held a meeting with potential submitters of alternative testing proposals that would include PK studies. At this meeting, EPA clarified the types of information the Agency was seeking in the PK ECA proposals. A copy of the meeting summary is included in the record for this rulemaking.

The deadline for written comments on the proposed HAPs test rule contained in the June 26, 1996 **Federal Register** proposal was December 23, 1996. EPA has successively extended the comment period on this proposed rule as follows: On October 18, 1996 (61 FR 54383) (FRL–5571–3), the comment period was extended from December 23, 1996 to January 31, 1997; on December 23, 1996 (61 FR 67516) (FRL–5580–6), it was extended from January 31, 1997 to March 31, 1997; on February 28, 1997 (62 FR 9142) (FRL–5592–1), it was extended from March 31, 1997 to April 30, 1997; on March 28, 1997 (62 FR 14850) (FRL–5598–4), it was extended from April 30, 1997 to June 30, 1997; on May 30, 1997 (62 FR 29318) (FRL–5831–6), it was extended from June 30, 1997 to August 15, 1997; on July 15, 1997 (62 FR 37833) (FRL–5732–2), it was extended from August 15, 1997 to September 30, 1997; on September 26, 1997 (62 FR 50546) (FRL–5748–8), it was extended from September 30, 1997 to December 1, 1997; and on November 28, 1997 (62 FR 63299) (FRL–5759–2), it was extended from December 1, 1997 to January 9, 1998. These extensions to the comment period were necessary to allow the Agency more time to finalize eleven TSCA health effects test guidelines to be cross-referenced in this amended HAPs test rule proposal, and to respond to the PK ECA proposals submitted by industry.

By this action, EPA is extending the public comment period of the original HAPs proposed rule from January 9, 1998 to February 9, 1998. This extension of the comment period is needed to provide commenters with sufficient time to consider the effects of the TSCA test guidelines, the economic assessment for the amended HAPs proposal and other changes described in this action, and to comment accordingly.

II. TSCA Test Guidelines for HAPs Chemicals

A. Background to Test Guidelines Used in this Amendment

The original proposed HAPs test rule cross-referenced eleven draft harmonized health effects test guidelines developed by the Office of Pollution Prevention and Toxic Substances (OPPTS) of the EPA. These draft OPPTS harmonized guidelines had previously been made available for public comment in the **Federal Register** of June 20, 1996 (61 FR 31522 (FRL–5367–7)). The draft harmonized guidelines were designated as the OPPTS draft Series 870 test guidelines in the June 20, 1996 **Federal Register** announcement. In the original HAPs proposal, EPA stated that it was considering one of three alternative approaches for referencing test guidelines in the test standards proposed for HAPs testing (61 FR 33178, 33187). Deficiencies with each of the three approaches led EPA to promulgate eleven TSCA health effect guidelines on August 15, 1997 (62 FR 43820), codified at 40 CFR part 799, subpart H. EPA is proposing to cross-reference these guidelines in the test standards proposed for HAPs testing, and intends to cross-reference them, as appropriate, in subsequent TSCA section 4(a) test rules. Until the establishment of the new TSCA test guidelines in subpart H, EPA had been cross-referencing in test rules an earlier set of TSCA test guidelines in 40 CFR parts 795 through 798, originally promulgated in 1985 (50 FR 39252, September 27, 1985).

The Agency, in developing the TSCA test guidelines established in part 799, subpart H, adopted seven of the OPPTS final harmonized test guidelines and four guidelines developed by the Organization for Economic Cooperation and Development (OECD). The only significant difference between the TSCA test guidelines and the OPPTS final harmonized test guidelines is that certain recommended procedures in the OPPTS final harmonized test guidelines are made mandatory to provide for enforceability. Table 1 in § 799.5053 of this amended proposal shows how the TSCA test guidelines would be referenced in enforceable test standards for the HAPs test rule.

An explanation of the process by which the TSCA test guidelines were developed from the OPPTS draft harmonized test guidelines, along with a discussion of the significant changes made to the draft harmonized guidelines in developing the TSCA guidelines, is described in the final rule adding the new TSCA test guidelines to 40 CFR part 799, subpart H (62 FR 43820, August 15, 1997) (FRL–5719–5). The official record for the rulemaking for the TSCA test guidelines has been established under document control number OPPTS–42193, and has been included in the record for this rulemaking. This record contains the basic information considered by EPA in developing the TSCA test guidelines. The record includes the OPPTS draft harmonized health effects test guidelines, references contained in the TSCA test guidelines, an explanation of the process of developing OECD test guidelines for genetic toxicity with EPA's role in this international process, and the final report of the Scientific Advisory Panel that provided peer review comments to EPA which were considered by the Agency in developing the OPPTS final harmonized guidelines.

B. Summary of Basic Testing Requirement Changes Proposed by this Amendment

The eleven TSCA test guidelines which are specified as basic testing requirements in Table 1 of § 799.5053 that EPA is proposing to use for testing the chemicals in the HAPs test rule are as follows:

1. TSCA acute inhalation toxicity with histopathology, 40 CFR 799.9135.
2. TSCA subchronic inhalation toxicity, 40 CFR 799.9346.
3. TSCA prenatal developmental toxicity, 40 CFR 799.9370.
4. TSCA reproduction and fertility effects, 40 CFR 799.9380.
5. TSCA carcinogenicity, 40 CFR 799.9420.
6. TSCA bacterial reverse mutation test, 40 CFR 799.9510.
7. TSCA *in vitro* mammalian cell gene mutation test, 40 CFR 799.9530.
8. TSCA mammalian bone marrow chromosomal aberration test, 40 CFR 799.9538.
9. TSCA mammalian erythrocyte micronucleus test, 40 CFR 799.9539.
10. TSCA neurotoxicity screening battery, 40 CFR 799.9620.

11. TSCA immunotoxicity, 40 CFR 799.9780.

EPA is proposing to use the TSCA test guideline § 799.9370 ''TSCA prenatal developmental toxicity'' as the basic testing requirement for developmental toxicity testing in this amended proposal. This guideline is based on the OPPTS final harmonized 870.3700 guideline entitled ''Prenatal Developmental Toxicity Study'' (to be published when all OPPTS harmonized health effects guidelines have been finalized). The original HAPs proposal cross-referenced OPPTS draft 870.3600 ''Inhalation Developmental Toxicity Study'' as the guideline for the developmental toxicity endpoint. The Agency prefers the approach taken by the OPPTS final harmonized 870.3700 guideline (the basis for the TSCA § 799.9370 guideline) over that taken by the OPPTS draft 870.3600 guideline because the OPPTS final harmonized 870.3700 guideline provides a broader testing approach. Furthermore, the OPPTS final harmonized 870.3700 guideline incorporates the testing specifications included in the OPPTS draft 870.3600 guideline.

The original HAPs proposal cross-referenced four OPPTS draft Series 870 harmonized genotoxicity test guidelines: 870.5385 ''*In vivo* Mammalian Cytogenetics Tests: Bone Marrow Chromosomal Analysis;'' 870. 5395 ''*In vivo* Mammalian Cytogenetics Tests: Erythrocyte Micronucleus Assay;'' 870.5100 ''*Escherichia coli* WP2 and WP2 uvrA Reverse Mutation Assays;'' and 870.5300 ''Detection of Gene Mutations in Somatic Cells in Culture.'' See Unit IV.C. ''Test Guidelines'' of the original HAPs test rule proposal and Table 1 in § 799.5053 of the original HAPs proposal (61 FR 33178, 33187, 33197–33199). OPPTS later determined that the above-referenced genotoxicity test guidelines would not provide a sufficient basis for developing OPPTS final harmonized test guidelines for genotoxicity and looked to international efforts begun in 1989 by the OECD to develop an internationally accepted set of genotoxicity test guidelines. By September 1996, four OECD genotoxicity test guidelines had undergone extensive peer review and revision that included participation by U.S. scientific experts in the area of genotoxicity. The four OECD final revision genotoxicity test guidelines were approved by the member countries of the OECD in September 1996. In February 1997, these four genotoxicity guidelines were read from the OECD homepage (http://www.oecd.org/ehs/test/testlist.htm). OPPTS reformatted these documents and designated them as OPPTS final Series 870 harmonized test guidelines, to be published when all OPPTS harmonized health effects guidelines have been finalized. These four Series 870 final OPPTS harmonized test guidelines were adopted and published as TSCA test guidelines at 40 CFR part 799, subpart H (62 FR 43820, August 15, 1997).

In summary, the genotoxicity test guidelines to be cross-referenced as basic testing requirements by this amended HAPs proposal were developed based on the following documents:

The OECD final revision test guideline 471/472 ''Bacterial reverse mutation assay'' was adopted as OPPTS final harmonized test guideline, 870.5100 ''Bacterial reverse mutation test,'' which in turn, provided the basis for TSCA test guideline § 799.9510 ''TSCA bacterial reverse mutation test.''

The OECD final revision test guideline 476 ''*In vitro* mammalian cell gene mutation test'' was adopted as OPPTS final harmonized test guideline, 870.5300 ''*In vitro* mammalian cell gene mutation test,'' which in turn, provided the basis for TSCA test guideline § 799.9530 ''TSCA *in vitro* mammalian cell gene mutation test.''

The OECD final revision guideline 475 ''Mammalian bone marrow chromosome aberration test'' was adopted as OPPTS final harmonized test guideline, 870.5385 ''Mammalian bone marrow chromosomal aberration test,'' which in turn, provided the basis for TSCA test guideline § 799.9538 ''TSCA mammalian bone marrow chromosomal aberration test.''

The OECD final revision test guideline 474 ''Mammalian erythrocyte micronucleus test'' was adopted as OPPTS final harmonized test guideline, 870.5395 ''Mammalian erythrocyte micronucleus test,'' which in turn, provided the basis for TSCA test guideline § 799.9539 ''TSCA mammalian erythrocyte micronucleus test.''

EPA has documented the Agency's participation in the OECD revision process for updating the genotoxicity test guidelines (U.S. EPA Memorandum, March 10, 1997 (a)), the relationship among the OPPTS draft Series 870 harmonized genotoxicity test guidelines cross-referenced in the original HAPs test rule proposal, the OECD test guidelines, and the OPPTS final Series 870 harmonized test guidelines (U.S. EPA Memoranda, February 27, 1997; and March 10, 1997(b)), and the relationship between the TSCA 40 CFR part 799 series test guidelines and the OECD test guidelines in the record for this rulemaking (see also 62 FR 43820, August 15, 1997). Copies of these documents are available as described in Unit V. of this preamble.

These changes are summarized in the following Table 1.

Table 1.—List of TSCA Test Guidelines Cross-referenced in the Proposed HAPs Test Rule, As Amended, and the Corresponding OPPTS Draft Harmonized Test Guidelines

TSCA test guidelines cross-referenced in the amended HAPs test rule proposal (40 CFR)	OPPTS draft harmonized test guidelines cross-referenced in the original HAPs test rule proposal
799.9135 TSCA acute inhalation toxicity with histopathology	870.1350 Acute Inhalation Toxicity with Histopathology
799.9346 TSCA subchronic inhalation toxicity	870.3465 Subchronic Inhalation Toxicity
799.9370 TSCA prenatal developmental toxicity (derived from 870.3700)[1]	870.3600 Inhalation Developmental Toxicity Study
799.9380 TSCA reproduction and fertility effects	870.3800 Reproduction and Fertility Effects
799.9420 TSCA carcinogenicity	870.4200 Carcinogenicity
799.9510 TSCA bacterial reverse mutation test (derived from OECD 471/472)[1]	870.5100 *Escherichia coli* WP2 and WP2uvrA Reverse Mutation Assays
799.9530 TSCA *in vitro* mammalian cell gene mutation test (derived from OECD 476)[1]	870.5300 Detection of Gene Mutations in Somatic Cells in Culture
799.9538 TSCA mammalian bone marrow chromosomal aberration test (derived from OECD 475)[1]	870.5385 *In vivo* Mammalian Cytogenetics Tests: Bone Marrow Chromosomal Analysis

Table 1.—List of TSCA Test Guidelines Cross-referenced in the Proposed HAPs Test Rule, As Amended, and the Corresponding OPPTS Draft Harmonized Test Guidelines—Continued

TSCA test guidelines cross-referenced in the amended HAPs test rule proposal (40 CFR)	OPPTS draft harmonized test guidelines cross-referenced in the original HAPs test rule proposal
799.9539 TSCA mammalian erythrocyte micronucleus test (derived from OECD 474)[1]	870.5395 *In vivo* Mammalian Cytogenetics Tests: Erythrocyte Micrnucleus Assay
799.9620 TSCA neurotoxicity screening battery	870.6200 Neurotoxicity Screening Battery
799.9780 TSCA immunotoxicity	870.7800 Immunotoxicity

[1] See explanation of derivation in Unit II.B. of this preamble.

A revised § 799.5053 ''Chemical testing requirements for hazardous air pollutants,'' based on the use of the TSCA test guidelines for HAPs chemical testing, is included as part of this amended proposal.

The eleven TSCA test guidelines described in Table 1 of this preamble are included in the record for this rulemaking. The **Federal Register** notice containing the TSCA test guidelines is available electronically from the EPA's World Wide Web site, http://www.epa.gov/fedrgstr/, under the heading: ''Rules and Regulations;'' by internet e-mail: guidelines@epamail.epa.gov; by mail; or, from the TSCA Non-Confidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

EPA is soliciting comments on the eleven TSCA test guidelines to be incorporated in enforceable test standards under this amended HAPs proposal. To be considered in this rulemaking, comments must be submitted in the manner specified in the ''ADDRESSES'' section at the beginning of this document.

III. Changes and Clarifications

In addition to cross-referencing the TSCA test guidelines, this amended HAPs proposal is making other changes and clarifications to the original HAPs proposal, which are set forth as follows:

A. Phenol—Removal of Testing Requirements

The original HAPs proposal included testing requirements for phenol (CAS No. 108–95–2). On January 17, 1997, EPA published a document (62 FR 2607) which announced a testing consent order (Order) under TSCA section 4 that incorporated an ECA concluded between EPA and fourteen specified companies. In the ECA, the companies agreed to perform certain health effects tests on phenol. In addition, the January 17 document included a direct final rule which added phenol to the list of chemical substances in 40 CFR 799.5000 that are subject to testing consent orders and hence subject to export notification requirements under TSCA section 12(b). EPA received adverse comment with respect to making entities that are not signatory to the ECA subject to export notification requirements for phenol. Because of those adverse comments, on May 23, 1997 (62 FR 28368), EPA removed the export notification rule. EPA did not withdraw the Order or the ECA, and signatories to the ECA remain subject to export notification requirements. EPA intends to propose a phenol export notification rule at a future time. Because EPA anticipates receiving the necessary test data on phenol pursuant to the ECA and Order, EPA is amending the proposed HAPs test rule to remove all phenol testing requirements.

The documents entitled: ''Economic Assessment for the Amended Proposed TSCA Section 4(a) Test Rule for 21 Hazardous Air Pollutants,'' discussed in Units VI.A. and VI.D. of this preamble, and ''Additional Information on Small Entity Impacts of the Amended Proposed TSCA Section 4(a) Test Rule for 21 Hazardous Air Pollutants,'' discussed in Unit VI.C. of this preamble, have not yet been modified to reflect the reductions in impact and burden associated with the deletion of phenol testing, but will be so modified by the time the final rule is promulgated.

Unit VI. of this preamble contains data from the above economic assessment with all references to phenol removed. Similarly, Table 1 in § 799.5053, which sets forth the testing required for the chemicals in the proposed HAPs test rule, as amended, does not include phenol.

B. Export Notification Requirements

In the original HAPs proposal, EPA did not state that export notification under TSCA section 12(b), 15 U.S.C. 2611(b), would be required for the HAPs chemicals in the final rule. Section 12(b) of TSCA requires all persons who export or intend to export a chemical substance or mixture for which the submission of data is required under TSCA section 4 to notify EPA of this export or intent to export. Regulations interpreting the requirements of TSCA section 12(b) appear at 40 CFR part 707, subpart D. In brief, as of the effective date of the HAPs test rule, an exporter of any subject HAP chemical would be required to report to EPA the first export or intended export of the chemical to each foreign country of export. EPA would then notify the foreign government about the HAPs test rule as it relates to that chemical.

Accordingly, EPA is amending the original proposed HAPs test rule to require export notification for all the chemicals for which testing would be required under the amended HAPs proposal, and has changed § 799.5053 accordingly.

C. Persons Required to Test

1. *General.* In the original HAPs proposal, EPA indicated that persons who manufacture HAP chemicals included in the proposed rule as byproducts, as defined in 40 CFR 791.3(c), would be subject to the requirements set forth in the proposed rule. In addition, EPA proposed to exempt those manufacturers and processors that produce the HAP chemicals included in the proposed rule only as an impurity, as defined in 40 CFR 790.3, because it would be difficult and prohibitively expensive for EPA, manufacturers, and processors to identify with complete assurance all chemical substances that contain the HAP chemicals included in the proposed rule solely as an impurity and EPA would find it difficult to apply both the exemption and reimbursement processes to those who manufacture and/or process these HAP chemicals solely as an impurity. Furthermore, the Agency indicated that EPA's data reimbursement regulations established under TSCA section 4(c) (40 CFR part 791) state that those persons who manufacture or process chemical substances as impurities are not subject to test requirements unless a particular test rule specifically states otherwise (40 CFR 791.48(b)) and that EPA found no basis to propose such a requirement for

the original HAPs proposal (61 FR 33178, 33189, 33190).

EPA has received inquiries from industry seeking clarification of the distinction between byproduct and impurity in a variety of contexts in the manufacture of products and in the course of chemical processing (see document numbers 3, 8, 9, 10, 11, 12, and 14 referenced in Unit V.I. of this preamble). EPA's review has revealed that certain HAP chemicals included in this amended HAPs proposal are manufactured or processed as byproducts or impurities in quantities large enough that they can be identified in databases available to the Agency (Chemical Update System (CUS), Toxic Release Inventory (TRI), Aerometric Information Retrieval System Facility Subsystem (AFS)). Certain owners and operators of facilities that have, during the latest year prior to the publication of the final HAPs rule in the **Federal Register**, manufactured (including imported) or processed HAP chemicals included in this amended proposal in amounts equal to or greater than 25,000 lb are required under section 313 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. 11023, to report the TRI releases of these substances and, accordingly, know or should know whether they are manufacturing or processing these HAP chemicals. (EPCRA section 313 also requires reporting by facilities that use 10,000 lb or more of a listed toxic chemical during a calendar year). The toxic chemicals release reporting regulations promulgated pursuant to EPCRA section 313 additionally provide a de minimis exemption for chemicals otherwise subject to TRI requirements when the chemicals are present in mixtures in concentrations of less than one percent by weight (or 0.1% for carcinogens) (40 CFR 372.38(a)). Because chemical manufacturers and processors are among the persons required to report to TRI, manufacturers and processors generally should know the composition of chemicals that they manufacture or process at least at or above one percent by weight of composition.

By this amendment, EPA is proposing to modify criteria to determine when persons subject to the HAPs test rule must comply with the rule. The original HAPs proposal did not provide a volume cutoff beyond the provisions of 40 CFR 790.42(a) for manufacturers and processors as a means for determining when certain classes of persons would be required to comply with the rule. (The regulations cited above provide that, while legally subject to a test rule, processors, persons who manufacture less than 500 kg (1,100 lb) of the chemical annually, and persons who manufacture small quantities of the chemical solely for research and development, are not required to comply with the rule unless directed to do so by EPA in a subsequent notice if no manufacturer has submitted a notice of its intent to conduct testing.) Under the original HAPs proposal, all other manufacturers were required to comply with the rule when promulgated (''initially comply'').

The criteria proposed in this amended proposed rule provide an equitable means for determining which entities would be initially and secondarily responsible for testing HAPs chemicals: testing would be conducted primarily by persons owning facilities at which large volumes of HAPs chemicals are manufactured, while persons owning facilities at which smaller volumes of HAPs chemicals are manufactured would only be required to comply with the rule if no manufacturer submits a notice of its intent to conduct testing.

It is reasonable to expect that persons who manufacture or process chemicals containing HAPs should know the composition of the chemicals they manufacture or process at or above one percent by weight, and should know if they manufacture or process 25,000 lb or more of a chemical per year at any facility. Accordingly, EPA is amending the proposal to specify those who must initially comply with the HAPs rule: (1) any person who during the last complete corporate fiscal year prior to the publication of the final rule in the **Federal Register**, manufactured (including imported) at a particular facility any of the HAP chemicals included in this amended HAPs proposal in an amount equal to or in excess of 25,000 lb (regardless of the form of the HAP chemical, i.e., as a Class 1 substance, as a component of a mixture, as a byproduct, as an impurity, as a component of a Class 2 substance, or as an isolated intermediate), and (2) any person who during the last complete corporate fiscal year prior to the publication of the final rule, manufactured (including imported) at a particular facility any of the HAP chemicals as a component of a chemical substance or mixture that comprises one percent or more by weight of the chemical substance or mixture, as long as the amount of the HAP chemical is equal to or in excess of 25,000 lb. EPA is proposing to amend the ''Persons required to submit study plans, conduct tests and submit data'' text of § 799.5053 to reflect this change. (''Naturally occurring substances,'' as described at 40 CFR 710.4(b), and non-isolated intermediates, as defined at 40 CFR 704.3, are not to be considered in determining whether a person is responsible for HAP chemical testing.) If, during the last complete corporte fiscal year prior to the publication of the final rule in the **Federal Register**, a person manufactured 25,000 lb or more of a HAP chemical, as such, or in another substance or mixture at a concentration of one percent or more (as long as the amount of the HAP chemical is equal to or in excess of 25,000 lb), that person would be required to comply initially with the rule.

This approach is consistent with the policy of the United States, expressed by Congress in section 2(b)(1) of TSCA, 15 U.S.C. 2601(b)(1), that development of data regarding the effect of chemical substances and mixtures on human health and the environment should be the responsibility of those who manufacture and process such chemicals. The following examples are provided to guide companies in determining whether they are subject to the proposed HAPs test rule, as amended:

a. *Class 1 and Class 2 substances.* Under the amended HAPs proposal, testing would be required for HAP chemicals included in the proposed rule that are manufactured (including imported) or processed in the form of a Class 1 substance or as a component of a Class 2 substance. A Class 1 substance is a chemical substance with a composition that can be represented by a specific, complete chemical structure diagram. Examples of Class 1 substances are 1,1,2-trichloroethane, 1,1'-biphenyl and hydrochloric acid. A Class 2 substance is a complex combination of substances that cannot be represented by a specific, complete chemical structure diagram. Examples of Class 2 substances are light paraffinic distillates (petroleum), brominated soybean oil, and propoxylated tall oil. Class 1 and Class 2 substances that are in U.S. commerce are listed on the TSCA chemical substance inventory and have Chemical Abstracts Service (CAS) numbers. See 40 CFR 720.45(a)(1)(i) for the distinction between Class 1 substances and Class 2 substances.

Example 1: Producer—Class 2 Substance Containing a HAP Chemical

Company Z produces chemical substance E. Chemical substance E has a Chemical Abstract Service (CAS) number, includes several different chemical species, and cannot be represented by a specific, complete chemical structure diagram, i.e., it is a Class 2 substance. Chemical substance E appears on the TSCA Chemical Substance Inventory and was reported as a Class 2 substance. The composition of chemical substance E

includes chemical B (which is a HAP chemical that is included in the amended HAPs proposal) that was produced in the manufacture of chemical substance E. Chemical B is normally present in concentrations that range from 1 to 6 percent by weight of chemical substance E.

Company Status: EPA considers Company Z to be a producer of HAP chemical B. Irrespective of whether it intended HAP chemical B to be an integral part of chemical substance E, Company Z is a producer of HAP chemical B, if the amount of HAP chemical B produced at a concentration of one percent or greater at any facility during the company's last complete corporate fiscal year were more than 25,000 lb, Company Z would be required to comply initially with the rule.

Example 2: Processor—Class 2 Substance Containing a HAP Chemical

Company Z, which produces chemical substance E as discussed in Example 1, also applies chemical separation techniques on chemical substance E (a Class 2 substance that contains HAP chemical B) to produce chemical substances F and G. The separation proceeds without chemical reaction and no additional amount of HAP chemical B is produced. Chemical substance F, a Class 2 substance, contains some of the HAP chemical B that was a component of chemical substance E in concentrations that exceed one percent by weight. Chemical substance F has no separate commercial purpose and is disposed of as waste. Chemical substance G, a Class 1 substance, also contains some HAP chemical B in concentrations that exceed one percent by weight of G.

Company Status: Company Z is considered to be a processor of HAP chemical B with respect to the production of chemical substance F, a byproduct, and chemical substance G, a commercial product. However, Company Z remains responsible for producing HAP chemical B because of its original production of chemical substance E (see Example 1 above). Therefore, as a manufacturer and processor of HAP chemical B, Company Z would be required to comply initially with the amended HAPs test rule proposal if the total amount of the HAP chemical B component were 25,000 lb or more at any facility during the company's last complete corporate fiscal year after the publication of the rule. If another company had purchased chemical substance E from Company Z and had performed a similar separation process resulting in the production of chemical substances F and G, both of which contain HAP chemical B as an unintentionally present component, the purchaser would be considered only to be a processor of HAP chemical B as an impurity and, therefore, as a processor, must comply with the requirements of the rule only if directed to do so by EPA in a subsequent **Federal Register** notice because no manufacturer has submitted a notice of its intent to conduct testing. (Note that HAP chemical B was present in chemical substances F and G at greater than one percent concentration). Additional information regarding the status of processors is provided in this Unit of the preamble.

b. *HAPs present as part of mixtures.* Under the amended HAPs proposal, testing would be required for HAP chemicals included in the proposed rule that are manufactured (including imported) or processed as part of a mixture, as that term is defined by TSCA section 3(8). For example, a combination of substances that is manufactured as a result of a chemical reaction, but that could have been prepared without chemical reaction, is considered a mixture under TSCA section 3(8). If a HAP chemical is produced as a result of this chemical reaction, the person who manufactured the mixture has also manufactured the HAP chemical. A person who produced the same mixture but without chemical reaction would be considered to be a HAP processor.

Example 3: Manufacturers of Mixtures

Two companies, Company Y and Company Z, produce mixtures as commercial products that have the same composition and that contain HAP chemical B in concentrations that exceed one percent by weight of the mixture. Company Y purchases the components of the mixture and combines them without a chemical reaction occurring. Company Z creates the mixture by reacting chemicals. During the chemical reaction HAP chemical B is formed.

Company Status: Company Z has manufactured HAP chemical B and would be required to comply initially with the amended HAPs proposal if the total amount of chemical B manufactured is 25,000 lb or more at any facility during the company's last complete corporate fiscal year prior to the publication of the test rule. Company Y is a processor of HAP chemical B and, therefore, must comply with the requirements of the rule only if directed to do so by EPA in a subsequent **Federal Register** notice because no manufacturer has submitted a notice of its intent to conduct testing.

c. *Isolated intermediates.* Under the amended HAPs proposal, testing would be required for HAP chemicals included in the proposed rule that are manufactured (including imported) or processed in the form of isolated intermediates. HAP chemicals produced in the form of non-isolated intermediates (as defined at 40 CFR 704.3) are not subject to the amended HAPs proposal.

Example 4: Producer—Non-isolated and Isolated Intermediates

A company produces but does not isolate chemical substance H, a Class 2 substance that contains HAP chemical B in concentrations that exceed one percent by weight. Immediately following this production in a continuous flow process, chemical substance H is reacted with other chemicals to form chemical substance I, which the company isolates, packages and distributes in commerce. Chemical substance I does not contain any HAP chemical because chemical B in chemical substance H completely reacts in the formation of chemical substance I.

Company Status: Chemical substance H is a ''non-isolated intermediate,'' defined at 40 CFR 704.3. Although HAP chemical B is formed as part of chemical substance H, chemical B is reacted entirely in the continuous flow process. Therefore, the company would not be subject to the requirements of the amended HAPs proposal because the final product, chemical substance I, does not contain HAP chemical B.

If Class 2 chemical substance H had been removed from the reaction vessel, stored, and reacted later to form chemical substance I, chemical substance H would have been an isolated intermediate that contained HAP chemical B. In this case, the company would be required to comply initially with the amended HAPs proposal, if the amount of HAP chemical B that is manufactured during the company's last complete corporate fiscal year prior to the publication of the rule in the **Federal Register** were 25,000 lb or more at any facility, due to the company's production of a HAP chemical as part of an isolated intermediate.

2. *Processors.* The Agency has proposed findings under TSCA sections 4(a)(1)(A) and 4(a)(1)(B) for the manufacturing and processing of the chemicals contained in the proposed HAPs test rule. See Supporting Documentation 3(a), (b) and (c) and References 11, 12 and 16 as cited in Unit III.C. ''Review of Data and Selection of HAPs'' and Unit V. ''Findings'' of the original HAPs test rule proposal (61 FR 33178, 3384, 33185, 33190). The terms ''process'' and ''processor'' are defined at TSCA sections 3(10) and 3(11), respectively

Accordingly, in the preamble to the original HAPs proposal (61 FR 33178, 33189), EPA stated that persons who manufacture (including import) or process, or intend to manufacture or process, any of the HAPs chemicals would be subject to the testing requirements in the rule. The preamble also explained that manufacturers would be required to submit letters of intent to conduct testing or exemption applications under 40 CFR 790.45. However, under 40 CFR 790.42, processors, small-quantity manufacturers, and manufacturers of small quantities solely for research and development purposes would not be required to submit letters of intent or exemption applications unless directed to do so in a subsequent notice as described in 40 CFR 790.48(b).

The text of § 799.5053 in the original HAPs test rule proposal did not include

processors in the class of persons required to submit study plans, conduct tests, and submit data. The text of § 799.5053, however, did reference the fact that processors (and small-quantity manufacturers and manufacturers of small quantities solely for research and development purposes) would become subject to these requirements only after notification in the **Federal Register** that no manufacturer had notified EPA of its intent to conduct testing.

The text of § 799.5053 of this amended HAPs proposal makes it clear that while processors would be included in the class of persons subject to the rule, processors, small quantity manufacturers, manufacturers of small quantities of HAP chemicals solely for research and development purposes and persons who, at any facility, manufacture a HAP chemical subject to this rule in an amount less than 25,000 lb or as a component of a chemical substance or mixture and comprises less than one percent by weight of the chemical substance or mixture (as long as the amount of the HAP chemical is equal to or in excess of 25,000 lb) would need to comply with the requirements to submit study plans, conduct tests, and submit data only if no manufacturer submits a notice of its intent to conduct testing and if these persons are directed to do so in a subsequent notice published in the **Federal Register**.

3. *Carbonyl sulfide.* The original HAPs proposal identified carbonyl sulfide as the first chemical substance to be subject to a TSCA section 4 test rule that is produced almost exclusively as a byproduct (61 FR 33178, 33190). In the original HAPs proposal, EPA noted that persons who manufacture the subject HAPs chemicals, including carbonyl sulfide, as byproducts, as defined in 40 CFR 791.3(c), would be subject to the testing requirements set forth in the proposed rule. EPA also indicated that all persons reporting the release of carbonyl sulfide to the TRI pursuant to section 313 of EPCRA would be considered to be manufacturers of carbonyl sulfide and would be subject to the provisions of the HAPs test rule.

In preparing the economic analysis for carbonyl sulfide for the amended HAPs proposal, EPA utilized information from 1995 reports to both the TRI and AFS databases. For 1995, all those reporting release information to the TRI and AFS databases on carbonyl sulfide are manufacturers.

The Agency is hereby clarifying that all persons who manufacture carbonyl sulfide would be subject to the HAPs testing requirements, whether or not they report release information to the TRI, or in EPA's AIRS AFS database. As explained in Appendix A of EPA's economic assessment and the additional information document on small business impacts prepared for this assessment, EPA relied on information taken from the TRI and AFS databases to identify facilities releasing carbonyl sulfide (see Units VI.A., VI.C., and VI.D. of this preamble). EPA recognizes that these facilities may not represent the complete universe of facilities that produce carbonyl sulfide and that the information derived from these databases is not exhaustive. To the extent that there are additional manufacturers not identified in the Agency's economic assessment, the testing burden on any individual manufacturer may be reduced.

D. Testing Subject to GLP Requirements

In this amended HAPs proposal, EPA is clarifying the text of § 799.5053 to indicate that the required testing under the HAPs test rule shall be carried out following TSCA Good Laboratory Practice Standards (40 CFR part 792). The text of § 799.5053 in the original HAPs proposal stated that, among other things, testing should be conducted as specified in 40 CFR part 792 (see 61 FR 33178, 33197), but did not indicate that GLPs are codified at 40 CFR part 792. The text of § 799.5053 contained in this amended HAPs proposal clarifies this point.

E. Cresols—Clarification of Test Substances

EPA is clarifying that the provision of the HAPs test rule relating to cresols requires separate testing of each cresol isomer (i.e., *ortho*-isomer (CAS No. 95–48–7), *meta*-isomer (CAS No.108–39–4), and *para*-isomer (CAS No. 106–44–5)), as indicated in Table 1 in § 799.5053 in both the original HAPs proposal and this amended HAPs proposal. Therefore, each cresol isomer is subject to acute toxicity, subchronic toxicity, neurotoxicity, and immunotoxicity testing (61 FR 33178, 33198). Documentation supporting the findings for each cresol isomer, and all other subject HAPs chemicals, was previously described in Unit III. C. ''Review of Data and Selection of HAPs'' and Unit V. ''Findings'' of the original HAPs proposal (61 FR 33178, 33184, 33185, 33190). See Unit X. A. ''Supporting Documentation,'' Items (3)(a), (b), and (c) and Unit X. B. ''References,'' Items (11), (12), and (16) of the original HAPs proposal (see 61 FR 33178, 33195). Testing of cresols in particular is discussed at Unit III. D. ''Previous TSCA Testing Actions Affecting These Chemical Substances'' and Unit IV. B. ''Test Substance'' of the original HAPs proposal (61 FR 33178, 33185, 33186). See Unit X. A. ''Supporting Documentation'' of the original HAPs proposal, Items (1)(g) and (j) (61 FR 33178, 33194). It should be noted that the data for cresols summarized in the table entitled ''TSCA Section 4 (a) Statutory Findings'' (61 FR 33178, 33191) are based on the mixture of all three cresol isomers. As previously stated (61 FR 33178, 33186), EPA believes that it would be very burdensome to test every possible variation of the cresol mixture and is therefore proposing to test each isomer. This approach follows that taken in the final test rule for cresols (51 FR 15771, 15776, April 28, 1986).

Table 1 in § 799.5053, which sets forth the testing required for the chemicals in the proposed HAPs test rule, as amended, has been changed to clarify that testing is required for each cresol isomer.

F. Use of Acute and Non-Acute Data in Residual Risk Determinations

EPA is correcting an error in the preamble to the original HAPs proposal. In Unit II. ''Uses of Data'' (61 FR 33178, 33179 (third column)), the Agency indicated that non-acute data will be used by EPA to meet its statutory obligation under section 112(f) of the Clean Air Act (CAA), 42 U.S.C. 7412(f), to assess residual risk after the imposition of technology-based emission standards (maximum achievable control technology or MACT standards) required by CAA section 112(d), 42 U.S.C. 7412(d). However, as discussed at the public meeting held on the proposed HAPs test rule on October 1, 1996, the Agency intends that the residual risk determinations under the Clean Air Act be based on both acute and non-acute data. See pages 24 and 25 of the official transcript of the October 1, 1996 public meeting on the proposed test rule, included as part of this rulemaking record.

G. Submission of Equivalence Data

In Unit V. F. ''Persons Required To Test'' of the original HAPs proposal (61 FR 33178, 33189–33190), EPA did not indicate that those who file exemption applications would not be required to submit equivalence data, although this was indicated in Unit VII.B. of the original HAPs proposal. EPA is clarifying that the Agency is not proposing to require those who file exemption applications to submit equivalence data as a condition for exemption from the testing for the chemical substances subject to the HAPs test rule.

H. Other Changes to Regulatory Text

In addition to the changes made to the text and table in § 799.5053 ''Chemical testing requirements for hazardous air pollutants'' of the amended HAPs proposal that are set forth in previous sections of Unit III. of this preamble, the following changes have been made:

1. EPA has changed the titles of columns 2, 3, and 4 in Table 1 of § 799.5053 of the original HAPs proposal (61 FR 33178, 33197–33199) from: ''Chemical substance/required testing,'' ''OPPTS harmonized guidelines,'' and ''Specific requirements under this section'' to: ''Chemical name/types of testing,'' ''Basic testing requirements (test guideline),'' and ''Changes from guideline.'' The Agency believes that this change of nomenclature clarifies the meaning of Table 1. The corresponding description throughout the text of § 799.5053 has been revised to incorporate these changes.

2. In the original HAPs proposal at § 799.5053, EPA indicated that ''*E. coli* reverse mutation'' and ''gene mutation'' tests would be required for the HAP chemical carbonyl sulfide. The titles of these tests have been changed in § 799.5053 of the amended HAPs proposal to ''Bacterial reverse mutation'' and ''Mammalian gene mutation,'' respectively, to reflect corresponding changes in the titles of the referenced guidelines.

3. In the original HAPs proposal at § 799.5053, EPA designated paragraph (b)(1)(ii)(C) in Table 1 to indicate an oral route of exposure. No testing via an oral route of exposure was required in Table 1. Consequently, paragraph (b)(1)(ii)(C) has been changed. In the amended HAPs proposal, this paragraph now indicates a vapor-phase route of exposure specifically for *in vitro* cytogenetics testing.

4. In the original HAPs proposal, EPA did not indicate the route of exposure for the *in vitro* cytogenetics testing for the HAP chemical carbonyl sulfide (61 FR 33178, 33199). EPA is indicating in Table 1 of § 799.5053 that the route of exposure for the Bacterial reverse mutation and the Mammalian gene mutation testing would be vapor-phase as indicated in paragraph (b)(1)(ii)(C).

5. In the original HAPs proposal, EPA omitted additional testing requirements in the test standard for acute toxicity testing for chlorobenzene in Table 1 of § 799.5053 (61 FR 33178, 33198). Revised § 799.5053 corrects Table 1 to include the additional testing requirements specified in paragraph (b)(2) ''*Modifications applicable to acute testing*'' for chlorobenzene.

6. Paragraph (b)(5) ''*Reproductive toxicity and fertility study test modifications*'' of § 799.5053 in the original HAPs proposal has been deleted since it contains the same requirements as paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B), which specify that the route of exposure would be either vapor-phase inhalation or inhalation of aerosol.

7. In the original HAPs proposal, the guideline for developmental toxicity testing (OPPTS draft 870.3600) cited in Table 1 of § 799.5053 (61 FR 33178, 33197–33199) would have required developmental testing to be conducted using inhalation as the route of exposure. The TSCA prenatal developmental toxicity test guideline (40 CFR 799.9370) specified for developmental toxicity testing in this amended HAPs proposal does not indicate the route of exposure for testing. Table 1 of § 799.5053 has been changed to include specific references to the route of exposure for each HAP chemical substance for which developmental toxicity testing is proposed under this amended HAPs proposal.

8. In this amended HAPs proposal, EPA cites the TSCA immunotoxicity test guideline (40 CFR 799.9780) in Table 1 of § 799.5053 (61 FR 33178, 33197–33199). This test guideline contains four different test methods. EPA is proposing that immunotoxicity testing under the HAPs test rule include only the determination of antibody response to the administration of sheep red blood cell antigen. The Agency is further proposing that either the antibody plaque-forming cell assay (§ 799.9780(g)(1)(i)) or the ELISA immunoglobulin quantification assay (§ 799.9780(g)(1)(ii)) shall be used to meet the testing requirements. The natural killer cell assay (§ 799.9780(g)(1)(iii)) and the enumeration of splenic or peripheral blood cells (§ 799.9780(g)(2)) are not being proposed for HAPs testing. Accordingly, § 799.5053(b)(4) has been changed to clarify the immunotoxicity testing requirements and Table 1 of § 799.5053 includes notations to so indicate.

IV. Status of Proposals for Pharmacokinetics Studies and Other Proposals for Enforceable Consent Agreements and Orders

A. Proposals for PK Studies

1. EPA's Invitation for Proposals

In the original HAPs proposal, EPA invited proposals for pharmacokinetics studies and other mechanistic data to support route-to-route extrapolation of data from existing studies for the subject HAPs chemicals (61 FR 33178, 33188, 33189). The PK studies would be used to inform the Agency about route-to-route extrapolation of toxicity data from routes other than inhalation when it is scientifically defensible in order to empirically derive the inhalation risk. The PK proposals could form the basis for negotiation of enforceable consent agreements (ECAs) that would provide for testing in lieu of some or all of the tests proposed in the HAPs test rule, as amended.

The Agency has received alternative testing proposals for eight HAPs chemicals. These proposals are as follows:

(1) Diethanolamine (CAS No. 111–42–2), submitted by the Chemical Manufacturers Association, Alkanolamines Panel, and entitled ''Proposal for Pharmacokinetics Studies of Diethanolamine'' (November 25, 1996).

(2) Ethylene dichloride (CAS No. 107–06–2), submitted by the HAP Task Force, and entitled ''Proposal for Pharmacokinetics Study of Ethylene Dichloride'' (November 22, 1996).

(3) Ethylene glycol (CAS No. 107–21–1), submitted by the Chemical Manufacturers Association, Ethylene Glycol Panel, and entitled ''Proposal for Pharmacokinetic Studies of Ethylene Glycol'' (November 5, 1996).

(4) Hydrogen fluoride (CAS No. 7664–39–3), submitted by the Chemical Manufacturers Association, Hydrogen Fluoride Panel, and entitled ''Proposal for a Physiologically-Based Pharmacokinetic (PBPK) Model for Hydrogen Fluoride'' (November 22, 1996).

(5) Maleic anhydride (CAS No. 108–31–6), submitted by the Chemical Manufacturers Association, Maleic Anhydride Panel, and entitled ''Developing an Inhalation Testing Program for Maleic Anhydride'' (November 8, 1996).

(6) Phthalic anhydride (CAS No. 85–44–9), submitted by the Chemical Manufacturers Association, Phthalic Anhydride Producers Task Group, and entitled ''Testing Proposal of the Chemical Manufacturers Association, Phthalic Anhydride Producers Task Group in Response to EPA's Proposed Rule for Phthalic Anhydride'' (November 22, 1996).

(7) 1,2,4-Trichlorobenzene (CAS No. 120–82–1), submitted by the Chlorobenzene Producers Association (CPA), and entitled ''Proposal to Use the Pharmacokinetics, Physical, and Chemical Properties of 1,2,4-Trichlorobenzene to Fill Data Gaps'' (November 25, 1996).

(8) 1,1,2-Trichloroethane (CAS No. 79–00–5), submitted by the HAP Task Force, and entitled ''Proposal for Pharmacokinetics Study of 1,1,2-Trichloroethane'' (November 22, 1996).

Copies of the PK proposals and the Agency's preliminary technical analyses of these proposals have been placed in the public record for this action (OPPTS–42187B, FRL–4869–1).

2. The Agency's Evaluation of the Proposals

The following provides a background to EPA's method of evaluating the PK proposals. As the original HAPs proposal indicated (61 FR 33178, 33189), EPA used the Gerrity and Henry (1990) decision tree as an element in evaluating the PK proposals and also used mechanistic data in determining the appropriateness of route-to-route extrapolation from the existing data base as an alternative to conducting some or all of the testing required under the proposed HAPs test rule. Pharmacokinetics and mechanistic data may be used to inform the Agency about route-to-route extrapolation when EPA determines that extrapolation from existing studies may provide sufficient data to substitute for required testing under the proposed rule. Pharmacokinetics and mechanistic data alone may not be used to substitute for proposed required testing when studies by a route other than inhalation do not exist or are deemed by EPA to be inadequate. In such cases, however, pharmacokinetics and mechanistic data may be used to support a decision that required testing could be conducted using routes other than inhalation (see document referenced in Unit V.J.2. of this preamble).

In many cases, the proposals that EPA received went beyond PK by including alternate testing strategies to respond to the testing identified in the proposed HAPs test rule. EPA's evaluations of these proposals identify changes or additions that provide for testing of these HAP chemicals as an alternative to the testing contained in the proposed HAPs test rule. If this testing is incorporated into ECAs, and if the data resulting from testing under the ECAs are acceptable to the Agency, such testing will provide an alternative to some or all of the testing proposed for these substances in the HAPs test rule. If testing under these ECAs does not fulfill the Agency's needs, EPA reserves the right to meet these needs through rulemaking.

The Agency has prepared preliminary technical analyses of each PK proposal (ethylene dichloride, hydrogen fluoride, maleic anhydride, phthalic anhydride, 1,2,4-trichlorobenzene, ethylene glycol, diethanolamine and 1,1,2-trichloroethane) and sent each to the appropriate submitter. EPA notes that, as a result of unexpected complexities arising in the review of the PK proposals and contrary to the statement in the preamble to the proposed HAPs test rule, the Agency has not been able to conclude ECAs relating to PK studies within 12 months of the date of the HAPs test rule proposal. EPA expects to make further progress on these ECAs in the next few months.

In each preliminary technical response to a submitter of a PK proposal, EPA requested the submitter either to express a continued interest in pursuing the ECA process as an activity distinct from the test rule process, in light of the Agency's preliminary technical analysis, or to submit a revised proposal which takes into consideration the Agency's comments. Depending on each submitter's response, EPA will determine whether or not to proceed with the ECA process for that particular PK proposal.

B. Other Proposals for ECAs

EPA has received a proposal to develop a non-PK-related ECA for the HAP chemical methyl isobutyl ketone (CAS No. 108–10–1). This proposal was submitted to the Agency by the Chemical Manufacturers Association Ketones Panel on December 11, 1996, and is entitled ''Alternative Testing Proposal for Methyl Isobutyl Ketone.'' In addition, the EPA has received a proposal to develop an ECA for the HAP chemical 1,1'-biphenyl (CAS No. 92–52–4). This proposal submitted by the Biphenyl Workgroup on October 7, 1997, is entitled ''Developing a Test Plan for Assessing the Potential Risks of Inhaled Biphenyl.'' EPA has agreed to review the contents of these proposals and to provide comments on their technical merit and relevance to the proposed HAPs testing requirements.

EPA also received a proposal to enter into an ECA from the Chemical Manufacturers Association Cresols Panel to develop an alternative to the proposed HAPs testing for cresols. The proposal was dated April 9, 1997 and was accompanied by a document entitled ''Toxicological Profile for Cresols.'' The proposal focused on testing for only the *ortho*-cresol isomer. Subsequent telephone conversations between EPA and the Panel representative identified that the proposal was not fully developed (see documents referenced in Units V.G.3. and V.G.4. of this preamble). The proposal was later withdrawn by the CMA Cresols Panel.

EPA is hereby inviting the submission of proposals for ECAs on all the HAPs chemicals for which ECA proposals have not been received, but not for phenol (see Unit III.A. of this preamble). Such proposals must clearly describe the rationale for proposing an alternative testing program, detail the full extent of the testing to be performed under the proposal, and describe how the proposed testing would meet the testing requirements contained in the proposed HAPs test rule, as amended.

ECA proposals to provide testing alternative to that described in the proposed HAPs test rule, as amended, should be labeled: ''ECA Proposal for (HAP chemical name) to Provide Alternative Testing to Meet HAPs Rule Testing Requirements,'' identified by Document Control Number (OPPTS–42187B; FRL–5742–2), and sent to U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics, Document Control Office (7407), Room G–099, 401 M St., SW., Washington, DC 20460. Proposals for ECAs must be received no later than February 9, 1998. EPA will also seek to complete the development of any ECAs expeditiously, and, whenever possible, will work to complete such agreements within 12 months from the date of the Agency's acceptance of the proposal.

EPA will review the submissions and may select candidates for negotiation based on the ability of the proposal to fulfill the data requirements that are set forth in this amended HAPs proposal. If the Agency decides to proceed with the ECA process, it will publish a notice in the **Federal Register** soliciting persons interested in participating in or monitoring negotiations for the development of ECAs for PK studies to notify the Agency in writing.

C. The ECA Negotiation Process

Under its regulations, EPA is required to provide the public with an opportunity to comment on and participate in the development of ECAs. (The procedures for ECA negotiations are described at 40 CFR 790.22(b).) Under the ECA process, EPA will publish a notice in the **Federal Register** soliciting interested parties to participate in or monitor negotiations for ECAs on those HAPs chemicals for which the Agency has decided to proceed. The notice will also announce a date for one or more public meetings to negotiate the ECAs. At the meetings to negotiate the PK ECAs, EPA may raise issues, based on the Agency's further review of the PK proposals, that differ from those contained in the Agency's preliminary technical analyses. If ECAs are successfully concluded, they will be

incorporated into testing consent orders, by which means they become enforceable.

It is important that all submitters of ECA proposals—and potential submitters—recognize the significance of responding to the request for comments on the proposed HAPs test rule, as amended. The submission of a proposal to develop an ECA to conduct testing alternative to that contained in the HAPs test rule is no guarantee that the process will conclude with an agreement. Comments on the proposed HAPs test rule, as amended, should be submitted as an activity separate from the ECA process. To be considered in this rulemaking, comments must be submitted in the manner specified in the ''ADDRESSES'' section at the beginning of this document.

V. Public Record and Electronic Submissions

The official record for this rulemaking, including the public version, which does not include any information claimed as CBI, has been established for this rulemaking under document control number (OPPTS–42187A; FRL–4869–1). This docket also includes all material and submissions filed under docket number OPPTS–42193 (FRL–5719–5), the record for the rulemaking for the TSCA test guidelines, and all material and submissions filed under docket number OPPTS–42187B (FRL–4869–1), the record for the receipt of proposals for developing ECAs for alternative testing of HAPs chemicals. This record contains the basic information considered by EPA in developing this proposed rule, as amended, and appropriate **Federal Register** notices. The public version of this record, including printed, paper versions of electronic comments, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by document control number (OPPTS–42187A; FRL–4869–1). Electronic comments on this proposed rule, as amended, may be filed online at many Federal Depository Libraries.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter. No CBI should be submitted electronically.

Electronic Availability: *Internet:* Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/EPA-TOX/1997/). *Fax-On-Demand:* Using a faxphone call 202–401–0527 and select item 4640 for an index of available material and corresponding item numbers related to this document.

In addition to the documents listed in Unit X. of the original HAPs proposal, the record includes the following documents that are referenced in this amended HAPs proposal. Note that certain documents are listed in both the original HAPs proposal and the amended HAPs proposal.

A. **Federal Register** notices pertaining to this amended HAPs proposal consisting of:

1. ''Toxic Substances Control Act Test Guidelines'' (50 FR 39252, September 27, 1985).
2. ''Cresols; Testing Requirements'' (51 FR 15771, April 28, 1986).
3. ''Small Business Size Standards'' (61 FR 3280, January 31, 1996).
4. ''Proposed Testing Guidelines; Notice of Availability and Request for Comments'' (61 FR 31522, June 20, 1996).
5. ''Proposed Test Rule for Hazardous Air Pollutants; Proposed Rule'' (61 FR 33178, June 26, 1996).
6. ''Proposed Test Rule for Hazardous Air Pollutants; Notice of Public Meeting'' (61 FR 47853, September 11, 1996).
7. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule and Extension of Period for Receipt of Proposals for Enforceable Consent Agreements for Pharmacokinetics Studies'' (61 FR 54383, October 18, 1996).
8. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (61 FR 67516, December 23, 1996).
9. ''Testing Consent Order for Phenol'' (62 FR 2607, January 17, 1997).
10. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (62 FR 9142, February 28, 1997).
11. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (62 FR 14850, March 28, 1997).
12. ''Testing Consent Order for Phenol'' (62 FR 28368, May 23, 1997).
13. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (62 FR 29318, May 30, 1997).
14. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (62 FR 37833, July 15, 1997).
15. ''Toxic Substances Control Act Test Guidelines'' (62 FR 43820, August 15, 1997).
16. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (62 FR 50546, September 26, 1997).
17. ''Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period on Proposed Rule'' (62 FR 63299, November 28, 1997).

B. TSCA Test guidelines referenced in this amended HAPs proposal consisting of:

1. 799.9135 TSCA acute inhalation toxicity with histopathology (62 FR 43820, 43824-43828, August 15, 1997).
2. 799.9346 TSCA subchronic inhalation toxicity (62 FR 43820, 43828-43832, August 15, 1997).
3. 799.9370 TSCA prenatal developmental toxicity (62 FR 43820, 43832-43834, August 15, 1997).
4. 799.9380 TSCA reproduction and fertility effects (62 FR 43820, 43834-43838, August 15, 1997).
5. 799.9420 TSCA carcinogenicity (62 FR 43820, 43838-43842, August 15, 1997).
6. 799.9510 TSCA bacterial reverse mutation test (62 FR 43820, 43842-43846, August 15, 1997).
7. 799.9530 TSCA *in vitro* mammalian cell gene mutation test (62 FR 43820, 43846-43850, August 15, 1997).
8. 799.9538 TSCA mammalian bone marrow chromosomal aberration test (62 FR 43820, 43850-43853, August 15, 1997).
9. 799.9539 TSCA mammalian erythrocyte micronucleus test (62 FR 43820, 43853-43857, August 15, 1997).

10. 799.9620 TSCA neurotoxicity screening battery (62 FR 43820, 43857-43860, August 15, 1997).

11. 799.9780 TSCA immunotoxicity (62 FR 43820, 43860-43864, August 15, 1997).

C. OPPTS draft harmonized test guidelines cross-referenced in the original HAPs proposal consisting of:

1. Acute Inhalation Toxicity with Histopathology, OPPTS 870.1350, EPA Pub. No. 712-C-96-291, June 1996.

2. Subchronic Inhalation Toxicity, OPPTS 870.3465, EPA Pub. No. 712-C-96-204, June 1996.

3. Inhalation Developmental Toxicity Study, OPPTS 870-3600, EPA Pub. No. 712-C-96-206, June 1996.

4. Reproduction and Fertility Effects, OPPTS 870.3800, EPA Pub. No. 712-C-96-208, February 1996.

5. Carcinogenicity, OPPTS 870.4200, EPA Pub. No. 712-C-96-211, June 1996.

6. *Escherichia coli* WP2 and WP2 uvrA Reverse Mutation Assays, OPPTS 870.5100, EPA Pub. No. 712-C-96-247, June 1996.

7. Detection of Gene Mutations in Somatic Cells in Culture, OPPTS 870.5300, EPA Pub. No. 712-C-96-221, June 1996.

8. *In Vivo* Mammalian Cytogenetics Tests: Bone Marrow Chromosomal Analysis, OPPTS 870.5385, EPA Pub. No. 712-C-96-225, June 1996.

9. *In Vivo* Mammalian Cytogenetics Tests: Erythrocyte Micronucleus Assay, OPPTS 870.5395, EPA Pub. No. 712-C-96-226, June 1996.

10. Neurotoxicity Screening Battery, OPPTS 870.6200, EPA Pub. No. 712-C-96-238, June 1996.

11. Immunotoxicity, OPPTS 870.7800, EPA Pub. No. 712-C-96-351, June 1996.

D. Other guidelines referenced in this proposal:

1. OECD final revision test guideline 471 / 472 ''Bacterial reverse mutation assay,'' as read from the OECD homepage: http://www.oecd.org/ehs/test/ testlist.htm (February 1997).

2. OECD final revision test guideline 476 ''*In vitro* mammalian cell gene mutation test,'' as read from the OECD homepage: http://www.oecd.org/ehs/test/ testlist.htm (February 1997).

3. OECD final revision guideline 475 ''Mammalian bone marrow chromosome aberration test,'' as read from the OECD homepage: http://www.oecd.org/ehs/test/ testlist.htm (February 1997).

4. OECD final revision test guideline 474 ''Mammalian erthyrocyte micronucleus test,'' as read from the OECD homepage: http://www.oecd.org/ehs/test/ testlist.htm (February 1997).

E. Test Guideline Support documents referenced in this proposal:

1. USEPA. Memorandum, Angela Auletta and Michael Cimino to Roger Nelson. HAPs Rule: OECD Process for Update of Genetic Toxicity Test Guidelines, March 10, 1997(a).

2. USEPA. Memorandum, Michael C. Cimino to Roger Nelson. Genotoxicity Test Guidelines for the HAPs Rule, February 27, 1997.

3. USEPA. Memorandum, Michael C. Cimino to Richard Leukroth. HAPs Rule: Adaptation of OECD Genotoxicity Test Guidelines, March 10, 1997(b).

4. Final report of the FIFRA Scientific Advisory Panel meeting, held October 29-30, 1996.

F. PK-related documents consisting of:

1. Chemical Manufacturers Association, Alkanolamines Panel, ''Proposal for Pharmacokinetics Studies of Diethanolamine'' (November 25, 1996).

2. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Diethanolamine'' (November 21, 1997).

3. HAP Task Force, ''Proposal for Pharmacokinetics Study of Ethylene Dichloride'' (November 22, 1996).

4. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Ethylene Dichloride,'' with cover letter (June 26, 1997).

5. Chemical Manufacturers Association, Ethylene Glycol Panel, ''Proposal for Pharmacokinetic Studies of Ethylene Glycol'' (November 5, 1996).

6. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Ethylene Glycol, with cover letter (August 26, 1997).

7. Chemical Manufacturers Association, Hydrogen Fluoride (HF) Panel, ''Proposal for a Physiologically-Based Pharmacokinetic (PBPK) Model for Hydrogen Fluoride'' (November 22, 1996).

8. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Hydrogen Fluoride'' (June 26, 1997).

9. Chemical Manufacturers Association, Maleic Anhydride Panel, ''Developing an Inhalation Testing Program for Maleic Anhydride'' (November 8, 1996).

10. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Maleic Anhydride,'' with cover letter (July 10, 1997).

11. Chemical Manufacturers Association, Phthalic Anhydride Producers Task Group, ''Testing Proposal of the Chemical Manufacturers Association, Phthalic Anhydride Producers Task Group in Response to EPA's Proposed Rule for Phthalic Anhydride'' (November 22, 1996).

12. U.S. EPA. ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Phthalic Anhydride,'' with cover letter (July 10, 1997).

13. Chlorobenzene Producers Association, ''Proposal to Use the Pharmacokinetics, Physical, and Chemical Properties of 1,2,4-Trichlorobenzene to Fill Data Gaps'' (November 25, 1996).

14. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for 1,2,4-Trichlorobenzene,'' with cover letter (July 15, 1997).

15. HAP Task Force, ''Proposal for Pharmacokinetics Study of 1,1,2-Trichloroethane'' (November 22, 1996).

16. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for 1,1,2-Trichloroethane,'' with cover letter (June 26, 1997).

G. Other ECA proposals and related correspondence consisting of:

1. Chemical Manufacturers Association, Ketones Panel, ''Alternative Testing Proposal for Methyl Isobutyl Ketone,'' December 11, 1996 .

2. Letter from Charles M. Auer, EPA, to Barbara Francis, Chemical Manufacturers Association, March 3, 1997.

3. Letter from Carol R. Stack, Chemical Manufacturers Association, Cresols Panel to Charles M. Auer, EPA, April 9, 1997 (with attachment).

4. Contact report by Richard W. Leukroth, EPA, regarding discussion with Leah Porter and Elizabeth Watson, Chemical Manufacturers Association, Cresols Panel, May 19, 1997.

5. Biphenyl Work Group, ''Developing a Test Plan for Assessing the Potential Risk of Inhaled Biphenyl,'' with cover letter and attachment (October 7, 1997).

6. Letter from Charles Auer, EPA to John Murray, Biphenyl Work Group, November 4, 1997.

H. Technical support documents consisting of:

1. U.S. EPA, ''Economic Assessment for the Amended Proposed TSCA Section 4(a) Test Rule for 21 Hazardous Air Pollutants,'' OPPT/EETD/EPAB, November 14, 1997.

2. U.S. EPA, ''Section 4 Test Rule Support for 21 Hazardous Air Pollutants,'' OPPT/EETD/EPAB, April 4, 1995 (economic analysis for the original HAPs proposal).

3. U.S. EPA, ''Additional Information on Small Entity Impacts for the Amended Proposed TSCA Section 4(a) Test Rule for 21 Hazardous Air

Pollutants,'' OPPT/EETD/EPAB, November 14, 1997.

4. U.S. EPA, ''TSCA Test Guidelines: Cost Estimates for Health Effects Testing,'' OPPT/EETD/RIB, various dates.

5. U.S. EPA, ''EPA Interim Guidance for Implementing the Small Business Regulatory Enforcement Fairness Act,'' EPA SBREFA Task Force, February 5, 1997.

6. U.S. EPA, ''Draft Review of Economic Impact Methodology Applied to TSCA Section 4 Test Rules,'' OPPT/ETD/RIB, September 23, 1988.

7. U.S. EPA, ''Economic Analysis in Support of the Final Rule to Amend TSCA Section 12(b),'' OPPT/ETD/RIB, June 1992.

I. Letters, Facsimiles, electronic correspondence, and contact reports consisting of:

1. Letter from Gene P. Current, Weirton Steel Corp., to Gary Timm, EPA, August 26, 1996.

2. Letter from Marian K. Stanley, Chemical Manufacturers Association, to Gary Timm, EPA, August 28, 1996.

3. Electronic correspondence from Ed J. Dulac, Air Products and Chemicals, Inc., to Gary Timm, EPA, September 11, 1996.

4. Letter from Charles M. Auer, EPA, to Kathleen Roberts, Chemical Manufacturers Association, September 20, 1996.

5. Letter from Charles M. Auer, EPA, to Elizabeth Watson, Chemical Manufacturers Association, September 20, 1996.

6. Letter from Charles M. Auer, EPA, to Jack Murray, Synthetic Organic Chemical Manufacturers Association, September 20, 1996.

7. Letter from Charles M. Auer, EPA, to Caffey Norman, Halogenated Solvents Industry Alliance, September 20, 1996.

8. Fax transmittal from Rudolph J. Breglia, BP Oil, to Gary Timm, EPA, September 26, 1996.

9. Electronic correspondence from Steve Vasko, Eastalco Aluminum Company, to Gary Timm, EPA, October 1, 1996.

10. Electronic correspondence from Charlie Gjersvik, Goodwin & Broms, Inc., to Gary Timm, EPA, October 25, 1996.

11. Fax transmittal from Rudolph J. Breglia, BP Oil, to Dayton Eckerson, EPA, November 21, 1996.

12. Letter from Charles M. Auer, EPA, to Rudolph J. Breglia, BP Oil, July 29, 1997.

13. Note from Angela F. Hofmann, EPA, to Kevin Bromberg, Small Business Administration, September 9, 1997.

14. Contact report from Richard Leukroth and George Semeniuk, EPA, of phone call from Sharon Berryhill, Samendon Oil Corp., October 17, 1997.

15. Contact report from Richard Leukroth and Gary Timm, EPA, of phone call from Ray Scholten, Union Camp, October 20, 1997.

16. Letter from Charles M. Auer, EPA, to Gene P. Current, Weirton Steel Corp., November 21, 1997.

17. Letter from Charles M. Auer, EPA, to Ed J. Dulac, Air Products and Chemicals, Inc., November 21, 1997.

18. Letter from Charles M. Auer, EPA, to Steve Vasko, Eastalco Aluminum Company, November 21, 1997.

19. Letter from Charles M. Auer, EPA, to Charlie Gjersvik, Goodwin & Broms, Inc., November 21, 1997.

20. Letter from Charles M. Auer, EPA, to Rudolph J. Breglia, BP Oil, November 21, 1997.

21. Letter from Charles M. Auer, EPA, to Sharon Berryhill, Samendon Oil Corp., November 21, 1997.

22. Letter from Charles M. Auer, EPA, to Roy Scholten, Union Camp, November 21, 1997.

J. Meeting summaries consisting of:

1. Transcript of Public Meeting. October 1, 1996. ''Proposed Test Rule for Hazardous Air Pollutants 40 CFR Part 799.'' Prepared by: Carol J. Thomas Stenotype Reporting Services, Inc., 3162 Musket Court, Fairfax, VA 22030

2. Meeting Notes for the Pharmacokinetics Enforceable Consent Agreement Meeting. October 2, 1996. Prepared by: Leah Freeman and Michael Neal, Environmental Science Center, Syracuse Research Corporation, Syracuse, NY 13210.

3. Notes of EPA meeting with the Hydrogen Fluoride Panel, November 4, 1996.

4. Summary of meeting with Halogenated Solvents Industry Alliance HAP Task Force on 1,1,2-Trichloroethane and Ethylene Dichloride, November 5, 1996.

5. Summary of meeting with Small Business Administration on definition of ''small business'' to be proposed in the amended HAPs test rule, October 1, 1997.

VI. Regulatory Assessment Requirements

A. Economic Assessment

EPA has prepared a revised economic assessment entitled ''Economic Assessment for the Amended Proposed TSCA Section 4(a) Test Rule for 21 Hazardous Air Pollutants.'' This report evaluates the potential for significant economic impacts as a result of the testing required by this amended HAPs proposal. The costs estimated in the economic assessment are based on the use of the 11 TSCA test guidelines cross-referenced in this amended proposal. The total cost of providing test data on the HAPs chemicals under this amended proposal is estimated to range from $22.6 million to $39.3 million. These costs do not include data for phenol, which, as explained in Unit III.A. of this preamble, has been removed from the amended HAPs proposal. By comparison, the costs of providing test data on the HAPs chemicals under the original proposal were estimated to range from $25.2 million to $41.4 million (as indicated in the economic analysis for the original proposal). The costs developed in the economic assessment are based on test cost estimates that have been placed in the record for this rulemaking.

According to 40 CFR 790.42(a)(2), while legally subject to the HAPs test rule, processors of a HAP chemical would be required to comply with the requirements of the rule only if they are directed to do so in a subsequent notice as set forth in 40 CFR 790.48(b). EPA would only issue such a notice if no manufacturer or importer submits a notice of its intent to conduct testing. The Agency has never in fact notified processors of their obligation to test under such a notice, or applied the reimbursement procedures of 40 CFR part 791 to processors or even to manufacturers. Since EPA has identified at least one manufacturer or importer for each HAP chemical, the Agency presumes that at least one such manufacturer or importer would submit a notice of intent to conduct testing for each chemical and would actually conduct such testing, and thus that processors would not, at least initially, be burdened with the need to comply with the rule. Thus, in the economic assessment processors of the subject chemicals are not included.

To evaluate the potential economic effect of testing on HAP manufacturers and importers, EPA estimated the impact of the testing requirements as a percentage of chemical sales price. This measure compares annual revenues from the sale of a chemical to the annualized testing costs for that chemical. Annualized testing costs divide testing expenditures in the first year into an equivalent, constant yearly expenditure over a longer period of time. To calculate the percent price impact, testing costs (which include both laboratory and administrative expenditures) are annualized over 15 years using a 7 percent discount rate. Annualized testing costs are then divided by the total supply of the HAP chemical to derive the annualized unit test costs. The percent price impact is

calculated by dividing the annualized unit test costs by the sales price and multiplying by 100.

The upper-bound estimated total costs of testing (including both laboratory costs and administrative costs), annualized tests costs, price impact, and public reporting burden hours for the HAP chemicals in this amended HAPs test rule proposal are presented in the following Table 2. This table shows the maximum test costs, maximum price impacts (see Table 26 of the economic assessment) and public reporting burden hours (see Table C–3 of the economic assessment) estimated by EPA, which are presented in greater detail in the revised economic assessment document included in the public record for this action.

Table 2.—Summary of Economic Analysis for the Amended HAPs Test Rule Proposal

Chemical substances[1]	Maximum test costs		Maximum price impact (%)	Public reporting burden hours
	Total ($)	Annualized ($)		
1,1'-Biphenyl	2,518,183	276,483	0.7292	20,540
Carbonyl Sulfide	3,873,496	425,289	0.0424	35,560
Chlorine	105,186	11,549	0.0005	1,102
Chlorobenzene	1,218,931	133,832	0.1315	9,625
Chloroprene	1,592,388	174,836	0.0601	12,705
Cresol (3 isomers)	3,656,794	401,496	0.6069	28,875
Diethanolamine	2,518,183	276,483	0.2451	20,540
Ethylbenzene	1,934,638	212,413	0.0111	16,200
Ethylene Dichloride	2,397,668	263,251	0.0076	19,816
Ethylene Glycol	1,218,931	133,832	0.0068	9,625
Hydrochloric Acid	105,186	11,549	0.0048	1,102
Hydrogen Fluoride	2,518,183	276,483	0.1108	20,540
Maleic Anhydride	2,220,874	243,840	0.1258	22,755
Methyl Isobutyl Ketone	1,182,703	129,854	0.1384	9,247
Methyl Methacrylate	1,934,638	212,413	0.0200	16,200
Naphthalene	1,182,703	129,854	0.2081	9,247
Phthalic Anhydride	3,761,420	412,984	0.1174	34,513
1,2,4-Trichlorobenzene	977,636	107,339	0.8587	8,780
1,1,2-Trichloroethane	3,839,620	421,570	0.4138	35,275
Vinylidene Chloride	514,871	56,530	0.0853	4,561
Total	39,272,229	4,311,879		336,808

[1] The requirement for phenol testing has been removed from the amended HAPs proposal (see Unit III.A. of this preamble).

EPA believes, on the basis of these calculations, that the proposed testing of the HAPs chemicals does not impose any significant economic impact. Because these chemical substances have relatively large production volumes, the annualized costs of testing, expressed as a percentage of annual revenue, are very small—ranging from 0.0005 to 0.86 percent. Costs of testing are therefore found to be insignificant relative to revenues for companies producing these chemical substances. In addition, the TSCA section 12(b) export notification requirements that would be triggered by the final rule are expected to have a negligible impact on exporters—that of less than 1 percent of sales revenue. As discussed in more detail in the economic assessment, the Agency expects that the impact of the final HAPs rule will be less than that estimated in the original proposal. Although not considered in the economic assessment, EPA also anticipates further reductions in the estimated cost of the final rule attributable to the conclusion of any ECAs between EPA and industry.

While the rule imposes costs, it also has significant benefits which were not evaluated in the Agency's economic assessment. The data obtained from the HAPs test rule will assist the Agency in making regulatory decisions concerning the protection of human health from respiratory diseases such as asthma, emphysema and respiratory cancer; neurotoxicity; birth defects; and reproductive malfunction that are believed to be related to exposure to the hazardous air pollutant chemicals included in this rule. Specifically, data from this test rule will be used for the determination of significant residual risk after the imposition of MACT efforts to reduce human exposure to these chemicals. The data will also assist other agenices (e.g., Agency for Toxic Substances and Disease Registry, National Institute for Occupational Safety and Health, Occupational Safety and Health Administration, Consumer Product Safety Commission) in assessing chemical risks and in taking appropriate action within their programs.

EPA is seeking comment on the revised economic assessment. To be considered in this rulemaking, comments must be submitted in the manner specified in the ''ADDRESSES'' section at the beginning of his document.

B. Executive Order 12866 and Executive Order 12898; Unfunded Mandates Reform Act

Because the overall costs associated with testing under the amended HAPs proposal are expected to decrease relative to the original proposal, the amended proposal does not contain any provisions that would require additional consideration by the Office of Management and Budget (OMB) under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993) or Executive Order 12898, entitled Federal Actions to Address Environmental Justice in

Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). Similarly, the amended proposal does not require any actions under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). The Agency's activities related to these regulatory assessment requirements are discussed in the original proposed rule.

C. Regulatory Flexibility Act

For the original proposed HAPs test rule, EPA determined under section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, that the HAPs test rule, if finalized as proposed, would not result in a significant economic impact on small businesses. See Unit XI.B. of the preamble to the original HAPs proposal (61 FR 33178, 33196). In conjunction with this amended proposal, EPA has prepared and placed in the record for this action, a document that gives additional information on small entity impacts. As presented in this additional analysis, the new TSCA test guidelines cross-referenced in the amended HAPs proposal do not affect the Agency's previous determination with regard to small entity impacts. Since processors would not, at least initially, be burdened with the need to comply with the rule, processors are not included in the small entity analysis (see explanation regarding processors in the discussion of the economic assessment in Unit VI.A. of this preamble).

EPA does not believe that the impacts described in the analysis constitute a significant economic impact on a substantial number of small entities. The analysis states that the worst-case estimate shows that, on a HAP chemical by HAP chemical basis, a total of 8 manufacturers/importers (out of 365 manufacturers/importers initially burdened) may be affected by the rule. No manufacturers/importers for whom revenue data were available would be impacted by test costs that exceed 1 percent of their sales. For 8 manufacturers/importers whose revenues could not be determined, the size of the testing burden could not be determined and, therefore, the potential for impacts at greater than 1 percent of sales could not be ruled out. Nevertheless, in this context the rule would be unlikely to have a significant economic impact on a substantial number of small entities because the impacts of 1 percent or greater would be on fewer than 100 affected small entities.

Therefore, the Agency certifies that the HAPs test rule, if finalized according to this amended proposal, will not have a significant economic impact on a substantial number of small entities.

In the small entity analysis, the Agency has used the definition of a ''small business'' that is codified at 40 CFR 704.3 as ''small manufacturer or importer,'' which has been used for the general reporting and record keeping provisions for TSCA section 8(a) information gathering rules. According to section 601(3) of the RFA, agencies must use the definition of ''small business'' that is provided under the Small Business Act, 15 U.S.C. 631 *et seq.*, unless it establishes an alternative definition. The Agency may use the alternative definition for RFA purposes only after it has consulted with the Office of Advocacy of the Small Business Administration (SBA) and provided an opportunity for public comment.

Under the TSCA-related definition used by EPA, a manufacturer or importer is considered to be a ''small business'' if it meets either of the following criteria: (1) total annual sales of the company, combined with those of any parent company, are below $40 million and annual production volume or importation volume at the facility is less than or equal to 100,000 pounds; or (2) total annual sales of the company, combined with those of any parent company, are below $4 million (40 CFR 704.3). This definition also includes a provision that allows EPA to adjust the total annual sales values for inflation whenever the Agency deems it necessary to do so. EPA believes that specified levels of total annual sales, in conjunction with those for annual production or import volume, indicate the ability of a company to support chemical testing without significant costs or burden.

The small business size standards promulgated by the SBA (61 FR 3280, 3289–3291, January 31, 1996) for chemical manufacturers are based solely on the number of employees. For chemical manufacturing, however, the number of employees may not be closely related to the total annual sales of a company. Since chemical testing primarily requires a financial outlay, EPA believes that the number of employees is a less reliable measure of a company's ability to support testing than is a company's total annual sales. Therefore, in this rulemaking, the Agency is proposing to use the definition that appears at 40 CFR 704.3. This definition is discussed in the document entitled, ''Additional Information on Small Entity Impacts of the Amended Proposed TSCA section 4(a) Test Rule for 21 Hazardous Air Pollutants'' (see Unit V.H.3. of this document).

EPA is seeking comment on the use of the Agency's definition of ''small business,'' the ''Additional Information on Small Entity Impacts of the Amended Proposed TSCA Section 4(a) Test Rule for 21 Hazardous Air Pollutants'' document, as well as the small entity impacts analysis in the original proposal (61 FR 33178, 33196). EPA has consulted with the Office of Advocacy of the SBA concerning the Agency's use of the EPA definition. A summary of the meeting is in the record for this rulemaking (see document referenced in Unit V.J.5. of this preamble).

Any comments regarding the impacts that this action may impose on small entities should be submitted to the Agency in the manner specified under ''ADDRESSES'' at the beginning of this document.

D. Paperwork Reduction Act

The information collection requirements associated with test rules under TSCA section 4(a) in general, have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (PRA) under OMB control number 2070–0033 (EPA ICR No. 1139). The information collection requirements contained in this amended proposed rule, however, are not effective until the final rule, at which point the total estimated burden hours will be added to the total burden approved by OMB under control number 2070–0033. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information subject to OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

The list of public reporting burdens for the collection of information for chemical substances under the proposed HAPs test rule, as amended, as well as the numbers for the total public reporting burden and the overall average per chemical have changed from the numbers used in Unit XI.C. of the preamble to the original HAPs proposal (see: ''Paperwork Reduction Act'' (61 FR 33178, 33196)). As described in Unit VI.A. of this preamble, EPA has prepared an economic assessment which identifies the costs and burdens associated with the testing of the HAPs chemicals under the 11 TSCA test guidelines referenced in this amended

proposal. Table 3 compares the estimated public reporting burden hours for each of the HAPs chemicals in the amended proposal with the burden hours for each HAP chemical in the original proposal.

Table 3.—Comparison of Estimated Public Reporting Burden for the Original and Amended HAPs Test Rule Proposals

HAPs chemical	Estimated public reporting burden	
	Original HAPs test rule proposal	Amended HAPs test rule proposal
1,1'-Biphenyl	20,620	20,540
Carbonyl sulfide	47,644	35.560
Chlorine	693	1,102
Chlorobenzene	7,707	9,625
Chloroprene	13,039	12,705
ortho-Cresol	6,048	9,625
meta-Cresol	6,048	9,625
para-Cresol	6,048	9,625
Diethanolamine	21,826	20,540
Ethylbenzene	14,400	16,200
Ethylene dichloride	16,707	19,816
Ethylene glycol	7,816	9,625
Hydrochloric acid	693	1,102
Hydrogen fluoride	18,068	20,540
Maleic anhydride	35,849	22,755
Methyl isobutyl ketone	10,471	9,247
Methyl methacrylate	14,400	16,200
Naphthalene	10,580	9,247
Phenol[1]	693	
Phthalic anhydride	51,032	34,513
1,2,4-Trichlorobenzene	8,091	8,780
1,1,2-Trichloroethane	33,133	35,275
Vinylidene chloride	5,439	4,561
Av. Per HAPs response:	15,524	15,309
Total (all HAPs):	357,045	336,808

[1] The requirement for phenol testing has been removed from the amended HAPs proposal (see Unit III.A. of this preamble).

The total public reporting is now estimated to be 336,808 burden hours for all responses, as compared to the 357,045 burden hours indicated in the original proposal. The overall average public reporting burden for each HAP chemical is 15,309 burden hours, as compared to the 15,524 burden hours estimated in the original proposal. The overall average burden for each HAP chemical that is presented in the table in Unit XI.C. of the original HAPs proposal was calculated based on a total HAPs chemical count of 23 chemicals (each cresol isomer was considered to be a separate chemical moiety) (61 FR 33178, 33196). This method was also used to calculate the overall average public reporting burden for each HAP chemical for the amended HAPs proposal after the removal of data for phenol (a count of 22 chemicals).

As defined by the PRA and 5 CFR 1320.3, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The burden hours contained in the original economic analysis and the table in Unit XI.C. of the original HAPs proposal (61 FR 33178, 33196), however, were based only on burdens associated with the cost of laboratory testing and not the other activities described in the PRA.

In addition, the total burden hours for cresols that were presented in the ''Paperwork Reduction Act'' section of the original HAPs proposal were not reported correctly in the chemical-by-chemical table at 61 FR 33196. The reported 6,048 hours was the estimate calculated for each cresol isomer, not all three isomers as indicated in the table. Nevertheless, the total burden of 357,045 hours for all responses that was indicated in the original HAPs proposal did include the burdens for all three cresol isomers.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments to EPA as part of your overall comments on this proposed action in the manner specified in the ''ADDRESSES'' section at the beginning of this document, or to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2137), 401 M Street, SW., Washington, DC 20460, with a copy to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Please remember to include the OMB control number in any correspondence. In developing the final rule, the Agency will address any comments received regarding the information collection requirements contained in this proposal.

E. Executive Order 13045

Neither the original HAPs proposal nor this amended proposal requires special consideration by OMB pursuant

to the terms of Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because the Executive Order does not apply to rulemakings initiated prior to the issuance of the Order, in this instance, June 26, 1996, or actions expected to have an economic impact of less than $100 million.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: December 15, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR chapter I, subchapter R, be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5053 as proposed to be added at 61 FR 33197, June 26, 1996, is revised to read as follows:

§ 799.5053 Chemical testing requirements for hazardous air pollutants.

(a) *General testing provisions*—(1) *Identification of test substance.* Table 1 in paragraph (a)(6) of this section identifies those chemical substances that shall be tested in accordance with this section. The purity of each test substance shall be 97 percent or greater unless otherwise specified.

(2) *Persons required to submit study plans, conduct tests, and submit data.* (i) For purposes of this section, the term ''facility'' is defined as ''all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or is under common control with such person). A facility may contain more than one establishment.'' The facility for a person who imports a chemical substance is the facility of the operating unit within the person's organization which is directly responsible for importing the substance and which controls the import transaction, and may in some cases be the organization's headquarters office in the United States.

(ii) All persons who, during the last complete corporate fiscal year prior to the effective date specified in Table 1 in paragraph (a)(6) of this section, manufacture (including import, manufacture as a byproduct as defined in 40 CFR 791.3(c), and manufacture, including import, as an impurity as defined in 40 CFR 790.3) or process any chemical substance specified in Table 1 in the form of a Class 1 substance (as described in 40 CFR 720.45(a)(1)(i)), or a component of a Class 2 substance (as described in 40 CFR 720.45(a)(1)(i)) or mixture (as defined in TSCA section 3(8)), but not as a component of a naturally-occurring substance (as defined in 40 CFR 710.4(b)) or a non-isolated intermediate (as defined in 40 CFR 704.3), at a facility shall: submit letters of intent to conduct testing, submit study plans, conduct testing under TSCA Good Laboratory Practice Standards, and submit data, as specified in this section and part 792 of this chapter, or submit exemption applications, as specified in part 790 of this chapter.

(iii) As explained in part 790 of this chapter, processors, small-quantity manufacturers, and manufacturers of small quantities of the chemical substances specified in Table 1 solely for research and development purposes must comply with the requirements of the rule only if directed to do so by EPA in a subsequent notice because no manufacturer has submitted a notice of its intent to conduct testing.

(iv) Manufacturers of a chemical substance specified in Table 1 who, during the last complete corporate fiscal year prior to the effective date specified in Table 1, at no facility, manufacture such substance in an amount equal to or in excess of 25,000 lb must comply with the requirements of the rule only if directed to do so by EPA in a subsequent notice because no manufacturer has submitted a notice of its intent to conduct testing.

(v) Manufacturers of a chemical substance specified in Table 1 who, during the last complete corporate fiscal year prior to the effective date specified in Table 1, at no facility, manufacture such substance in an amount equal to or in excess of 25,000 lb as a component of another chemical substance or mixture in which the proportion of the substance specified in Table 1 is equal to or in excess of one percent by weight must comply with the requirements of the rule only if directed to do so by EPA in a subsequent notice because no manufacturer has submitted a notice of its intent to conduct testing.

(3) *Export notification.* All persons who export or intend to export a chemical substance listed in Table 1 in paragraph (a)(6) of this section are subject to part 707, subpart D, of this chapter.

(4) *Applicability of test guidelines.* The guidelines and test standards cited in Table 1 in paragraph (a)(6) of this section are referenced here as they exist on the effective date listed in Table 1 for that specific test. Testing shall be conducted in accordance with test standards specified in Table 1, which references TSCA health effects test guidelines codified at subpart H of this part.

(5) *Testing requirements.* The chemical substances identified by Chemical Abstracts Service (CAS) number and chemical name in Table 1 in paragraph (a)(6) of this section shall be tested in accordance with the test standards set forth in Table 1. The column labeled ''Basic testing requirements (test guideline)'' references the applicable TSCA test guideline on which the test standard is based, and the column entitled ''Changes from guideline'' lists the ways in which the specific test standard differs from the basic testing requirement (test guideline), as specified in paragraph (b) of this section.

(6) *Reporting requirements.* Interim progress reports for each test shall be submitted every 6 months, beginning 6 months after the effective date of any specific test listed in the following Table 1. Final reports for any specific test shall be submitted by the deadlines indicated as the number of months after the effective date shown in the following Table 1.

TABLE 1

CAS No.	Chemical name/types of testing	Test standard		Final report	Effective date
		Basic testing requirements (test guideline)	Changes from guideline		
75–35–4	Vinylidene chloride:				

TABLE 1—Continued

CAS No.	Chemical name/types of testing	Test standard		Final report	Effective date
		Basic testing requirements (test guideline)	Changes from guideline		
	Acute	799.9135	(b)(2)	21 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
79–00–5	1,1,2-Trichloroethane:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(ii)(A)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Carcinogenicity	799.9420	(b)(1)(i)(D), (b)(1)(ii)(A)	60 mo	
	In vivo cytogenetics	799.9538 or 799.9539	(b)(1)(ii)(A)	14 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
80–62–6	Methyl methacrylate:				
	Acute	799.9135	(b)(2)	21 mo	
	Developmental	799.9370	(b)(1)(i)(A), (b)(1)(ii)(A)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	21 mo	
85–44–9	Phthalic anhydride:				
	Acute	799.9350	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(1)(ii)(B), (b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(ii)(B)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(B)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(B), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Carcinogenicity	799.9420	(b)(1)(ii)(B)	60 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(B), (b)(4)	18 mo	
91–20–3	Naphthalene:				
	Acute	799.9135	(b)(2)	21 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	21 mo	
92–52–4	1,1'-Biphenyl:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(1)(ii)(B), (b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(i)(A), (b)(1)(ii)(B)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(B)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(B), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(B), (b)(4)	18 mo	
95–48–7	*ortho*-Cresol:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
108–39–4	*meta*-Cresol:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
106–44–5	*para*-Cresol:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	

TABLE 1—Continued

CAS No.	Chemical name/types of testing	Test standard		Final report	Effective date
		Basic testing requirements (test guideline)	Changes from guideline		
100–41–4	Ethylbenzene:				
	Acute	799.9135	(b)(2)	21 mo	
	Developmental	799.9360	(b)(1)(i)(A), (b)(1)(ii)(A)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	21 mo	
107–06–2	Ethylene dichloride:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(i)(C), (b)(1)(ii)(A)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
107–21–1	Ethylene glycol:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
108–10–1	Methyl isobutyl ketone:				
	Acute	799.9135	(b)(2)	21 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	29 mo	
108–31–6	Maleic anhydride:				
	Acute	799.9135	(b)(2)	21 mo	
	Developmental	799.9370	(b)(1)(i)(A), (b)(1)(ii)(A)	12 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Carcinogenicity	799.9420	(b)(1)(ii)(A)	60 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	21 mo	
108–90–7	Chlorobenzene:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
111–42–2	Diethanolamine:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(1)(ii)(B), (b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(ii)(B)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(B)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(B), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(B), (b)(4)	18 mo	
120–82–1	1,2,4-Trichlorobenzene:				
	Acute	799.9135	(b)(2)	21 mo	
	Developmental	799.9370	(b)(1)(ii)(A)	12 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	21 mo	
126–99–8	Chloroprene:				
	Acute	799.9135	(b)(2)	21 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	

TABLE 1—Continued

CAS No.	Chemical name/types of testing	Test standard		Final report	Effective date
		Basic testing requirements (test guideline)	Changes from guideline		
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	21 mo	
463–58–1	Carbonyl sulfide:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(ii)(A)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Carcinogenicity	799.9420	(b)(1)(ii)(A)	60 mo	
	Bacterial reverse mutation	799.9510	(b)(1)(ii)(C)	6 mo	
	Mammalian gene mutation	799.9530	(b)(1)(ii)(C)	6 mo	
	In vivo cytogenetics	799.9538 or 799.9539	(b)(1)(ii)(A)	14 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
7647–01–0	Hydrochloric acid:				
	Acute	799.9135	(b)(2)	21 mo	
7664–39–3	Hydrogen fluoride:				
	Acute	799.9135	(b)(2)	21 mo	
	Subchronic	799.9346	(b)(3)	18 mo	
	Developmental	799.9370	(b)(1)(ii)(A)	12 mo	
	Reproductive	799.9380	(b)(1)(ii)(A)	29 mo	
	Neurotoxicity	799.9620	(b)(1)(ii)(A), (b)(1)(iii)(A), (b)(1)(iii)(B)	21 mo	
	Immunotoxicity	799.9780	(b)(1)(ii)(A), (b)(4)	18 mo	
7782–50–5	Chlorine:				
	Acute	799.9135	(b)(2)	21 mo	

(b) *Changes from TSCA test guidelines.* The provisions in paragraphs (b)(1) through (b)(4) of this section when referenced in Table 1 in paragraph (a)(6) of this section under the column ''Changes from guideline,'' specify the manner in which the specific test standard differs from the TSCA test guideline upon which it is based.

(1) *Modifications applicable to all testing.* Only those provisions specifically referenced in Table 1 in paragraph (a)(6) of this section apply.

(i) *Test species.* The test animal shall be:

(A) A mammalian species other than the rat.

(B) A mammalian species other than the mouse.

(C) A mammalian species other than the rabbit.

(D) The male rat and the female mouse.

(ii) *Route of exposure.* Animals shall be exposed:

(A) Via vapor-phase inhalation.

(B) Via inhalation of aerosol.

(C) Via vapor-phase.

(iii) *Duration and frequency of exposure.* The test animal shall be:

(A) Exposed for a 4-hour period in an acute study.

(B) Exposed for 6 hours per day, 5 days per week for a 90-day period in a subchronic study.

(2) *Modifications applicable to acute testing.* When referenced in Table 1 in paragraph (a)(6) of this section, all provisions in this paragraph apply.

(i) The appraisal of pulmonary irritation shall be evaluated during exposure to the substance by the use of the mouse respiratory sensory irritation assay method as outlined in ASTM E–981–84 (see paragraph (b)(2)(iii)(C) of this section). This method assesses the breathing patterns of test animals. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of approval and notice of any change in this material will be published in the **Federal Register**. Copies of the incorporated material may be examined at the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC, 20460 or by contacting the American Society for Testing and Materials (ASTM), 100 Bar Harbor Drive, Conshohoken, PA 19428–2959. Copies may be inspected at the above address or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. For information on this test guideline, the references in paragraph (b)(2)(iii) of this section should be consulted.

(ii) *Results of respiratory sensory irritation assay.* Results shall be reported as follows:

(A) Data shall be included in the final report and tabulated to show:

(*1*) The magnitude of change in respiratory rate with exposure concentration and with time for each animal.

(*2*) A response concentration, which indicates the concentration at which the respiration rate is decreased by 50% (RD_{50}), will be calculated, along with the 95% confidence limits.

(B) Time-effect curves shall be included in the final report to evaluate the onset and shape of the response.

(iii) *References.*

(A) Alarie, Y., and Luo, J.E. ''Sensory Irritation by Airborne Chemicals: A basis to establish acceptable levels of exposure.'' *Toxicology of the Nasal Passages.* Hemisphere Publishing Corporation: New York pp. 91–100 (1986).

(B) Alarie, Y., and Stokinger, H.E. ''Sensory Irritation by Airborne Chemicals.'' *CRC Critical Reviews in Toxicology.* pp. 299–363 (1973).

(C) ASTM. ''Standard Test Method for Estimating Sensory Irritancy of Airborne Chemicals.'' In: *1984 Annual Book of ASTM Standards. Water and Environmental Technology.* Section 11. Volume 11.04 Designation E 981–84 pp. 572–584 (1984).

(3) *Modifications applicable to subchronic testing.* When referenced in Table 1 of this section, all provisions in this paragraph apply.

(i) *Respiratory tract pathology.* Respiratory tract pathology shall be performed as follows:

(A) Care shall be taken that the method used to kill the animal does not result in damage to the tissues of the upper or lower respiratory tract. The heart-lung, including the trachea, shall be removed in bloc.

(B) Representative sections of the lungs shall be examined histologically. This shall include trachea, major conducting airways, alveolar region, terminal and respiratory bronchioles, alveolar ducts and sacs, and interstitial tissues.

(C) The nasopharyngeal tissue shall be examined for histopathologic lesions. This shall include sections through the nasal cavity, and examination of the squamous, transitional, respiratory, and olfactory epithelia.

(D) The larynx mucosa shall be examined for histopathologic changes. Sections of the larynx to be examined include the epithelium covering the base of the epiglottis, the ventral pouch, and the medial surfaces of the vocal processes of the arytenoid cartilages.

(ii) *Bronchoalveolar lavage.* Bronchoalveolor lavage shall be performed as follows:

(A) The lungs shall be lavaged *in situ* or after sacrifice. If the study will not be compromised, one lobe of the lungs may be used for lung lavage while the other is fixed for histologic evaluation. The lungs shall be lavaged using physiological saline after cannulation of the trachea. The lavages shall consist of two washes each of which consists of approximately 80 percent (e.g., 5 ml in rats and 1 ml in mice) of total lung volume. Additional washes merely tend to reduce the concentrations of the material collected. The lung lavage fluid shall be stored on ice at approximately 5 deg. C until assayed.

(B) The following parameters shall be determined in the lavage fluid as indicators of cellular damage in the lungs: total protein, cell count and percent leukocytes. In addition, a phagocytosis assay using the procedure of Burleson or Gilmour and Selgrade (Burleson et al., 1987; Gilmour and Selgrade, 1993) shall be performed to determine macrophage activity. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of approval and notice of any change in this material will be published in the **Federal Register**. Copies of the incorporated material may be obtained from the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC, 20460, for the Burleson citation by contacting the Society for Experimental Biology and Medicine, at Blackwell Science Ltd., 238 Main Street, Cambridge, MA 02142, and for the Gilmour and Selgrade citation by contacting Academic Press, Inc., Toxicology and Applied Pharmacology, 62777 Sea Harbor Drive, Orlando, FL 32887. Copies may be inspected at the above address or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. The following references may be consulted:

(*1*) Burleson, G.R. et al. ''Poly (I): poly (C)-enhanced alveolar peritoneal macrophage phagocytosis: Quantification by a new method utilizing fluorescent beads.'' *Proceedings of the Society for Experimental Biology and Medicine.* 184:468–476 (1987).

(*2*) Gilmour, G.I., and Selgrade, M.K. ''A Comparison of the Pulmonary Defenses against Streptococcal Infection in Rats and Mice Following O_3 Exposure: Differences in Disease Susceptibility and Neutrophil Recruitment.'' *Toxicology and Applied Pharmacology.* 123:211–218 (1993).

(4) *Modifications applicable to immunotoxicity testing.* The natural killer cell assay and enumeration of splenic or peripheral blood cells in § 799.9789 (g)(1)(iii) and (g)(2) are not required.

[FR Doc. 97–33451 Filed 12–23–97; 8:45 am]

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federal register

Wednesday
December 24, 1997

Part IV

Department of Agriculture

Agricultural Research Service
Cooperative State Research, Education, and Extension Service

Biotechnology Risk Assessment Research Grants Program for Fiscal Year 1998; Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Cooperative State Research, Education, and Extension Service

Biotechnology Risk Assessment Research Grants Program for Fiscal Year 1998; Solicitation of Applications

AGENCY: Agricultural Research Service; Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Biotechnology Risk Assessment Research Grants Program; Fiscal Year 1998 solicitation of applications.

SUMMARY: Applications are invited for competitive grant awards under the Biotechnology Risk Assessment Research Grants Program (the ''Program'') for fiscal year (FY) 1998. The authority for the Program is contained in section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921). The Program is administered by the Cooperative State Research, Education, and Extension Service (CSREES) and the Agricultural Research Service (ARS) of the U.S. Department of Agriculture.

DATES: Proposals are due March 24, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Edward K. Kaleikau, USDA/CSREES, (202) 401–1901, Dr. Daniel D. Jones, USDA/CSREES, (202) 401–6854, or Dr. Robert M. Faust, USDA/ARS, (301) 504–6918.

SUPPLEMENTARY INFORMATION:

Table of Contents

Purpose
Applicant Eligibility
Available Funding
Program Description
Proposal Evaluation
Areas of Research to be Supported in Fiscal Year 1998
Applicable Regulations
Programmatic Contact
How to Obtain Application Materials
Proposal Format
Compliance with the National Environmental Policy Act (NEPA)
Proposal Submission and Due Date
Additional Information

Purpose

The purpose of the Program is to assist Federal regulatory agencies in making science-based decisions about the safety of introducing into the environment genetically modified organisms, including plants, microorganisms, fungi, bacteria, viruses, arthropods, fish, birds, mammals and other animals. The Program accomplishes this purpose by providing scientific information derived from the risk assessment research that it funds. Research proposals submitted to the Program must be applicable to the purpose of the Program to be considered.

Applicant Eligibility

Proposals may be submitted by any United States public or private research or educational institution or organization.

Available Funding

Subject to the availability of funds, the anticipated amount available for support of the Program in FY 1998 is $1.5 million.

Section 712 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998 (Pub. L. 105–86), prohibits CSREES from using the funds available for the Program for FY 1998 to pay indirect costs exceeding 14 per centum of the total Federal funds provided under each award on competitively awarded research grants.

Section 716 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, encourages entities to use grant funds to purchase only American-made equipment or products in the case of any equipment or product that may be authorized to be purchased with the funds provided under this program.

CSREES and ARS will competitively award research grants to support science-based biotechnology regulation and thus help address concerns about the effects of introducing genetically modified organisms into the environment and help regulators in developing policies regarding such introduction.

The Program's research emphasis is on risk assessment and not risk management. The Program defines risk assessment research as the science-based evaluation and interpretation of factual information in which a given hazard, if any, is identified, and the consequences associated with the hazard are explored. The Program defines risk management as (1) research aimed primarily at reducing risks of biotechnology-derived agents and (2) a policy and decision-making process that uses risk assessment data in deciding how to avoid or mitigate the consequences identified in a risk assessment. Proposals must be relevant to risk assessment to be eligible for this Program.

Proposals must include a statement describing the relevance of the proposed project to one or more of the topics requested in this solicitation. In addition, proposals must include detailed descriptions of the experimental design and appropriate statistical analyses to be done. The Program strongly encourages the inclusion of statisticians and risk analysis researchers as co-principal investigators or contractors.

Awards will not be made for clinical trials, commercial product development, product marketing strategies, or other research deemed not appropriate to risk assessment.

Proposal Evaluation

Proposals will be evaluated by the Administrator assisted by a peer panel of scientists for scientific merit, qualifications of project personnel, adequacy of facilities, and relevance to both risk assessment research and regulation of agricultural biotechnology.

Areas of Research To Be Supported in Fiscal Year 1998

Proposals addressing the following topics are requested:

1. Research on the introduction into the environment (not in a contained facility) of genetically engineered organisms. The data collected may include: survival; reproductive fitness; genetic stability; genetic recombination; horizontal gene transfer; loss of genetic diversity; or enhanced competitiveness. The organisms may include: fungi; bacteria; viruses; microorganisms; plants; arthropods; fish; birds; mammals; and other animals.

2. Research on large-scale deployment of genetically engineered organisms; especially commercial uses of such organisms, with special reference to considerations that may not be revealed through small-scale evaluations and tests. This may include monitoring locations where transgenic virus resistant plants (expressing viral transgenes) are grown on a commercial scale or in large-scale production for viral strains which overcome the resistance phenotype. The analysis of resistance-breaking strains should include analyzing whether the strain arose via recombination between viral transgenes and the viral genome. Such projects should survey the production sites for two to three years.

3. Research to develop statistical methodology and quantitative measures of risks associated with field testing of genetically modified organisms.

4. The Program will, subject to resource availability, provide partial funding to organize a scientific research conference that brings together scientists and regulators to review the science-based evidence, if any, that the

introduction of a pest resistance gene into a crop plant poses the risk of increasing the fitness of weedy, sexually compatible relatives of the crop plant. Data considered should include the introduction of pest resistance genes by conventional breeding or by a process involving recombinant DNA. The conference should provide an opportunity to address how experiments could be designed to test whether a pest resistance gene increases the fitness of weeds in the field. The scientific steering committee for the conference should include a broad representation of disciplines, including ecology, population biology, plant pathology, entomology, plant breeding, and others as appropriate. Evaluation criteria of submitted proposals will include: choice of topics and selection of speakers; general format of the conference, especially with regard to its appropriateness for fostering scientific exchange; provisions for wide participation from the scientific and regulatory community and others as appropriate; qualifications of the organizing committee and appropriateness of invited speakers to the topic areas being covered; and appropriateness of the budget requested and qualifications of the project personnel.

Applicable Regulations

This Program is subject to the administrative provisions found in 7 CFR part 3415, which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, the awarding of grants, and post-award administration of such grants. Several other Federal statutes and regulations apply to grant proposals considered for review or to grants awarded under this Program. These include but are not limited to:

7 CFR Part 3019, as amended by 62 FR 45934—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations.

Programmatic Contact

For additional information on the Program, please contact:

Dr. Edward K. Kaleikau, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2241, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2241, Telephone: (202) 401–1901
or
Dr. Daniel D. Jones, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2220, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2220, Telephone: (202) 401–6854
or
Dr. Robert M. Faust, Agricultural Research Service, U.S. Department of Agriculture, Room 338, Building 005, BARC-West, Beltsville, MD 20705, Telephone: (301) 504–6918

How To Obtain Application Materials

Copies of this solicitation, the administrative provisions for the Program (7 CFR Part 3415), and the Application Kit, which contains required forms, certifications, and instructions for preparing and submitting applications for funding, may be obtained by contacting: Proposal Services Unit, Grants Management Branch, Office of Extramural Programs, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2245, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2245, Telephone Number: (202) 401–5048.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov which states that you wish to receive a copy of the application materials for the FY 1998 Biotechnology Risk Assessment Research Grants Program. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Proposal Format

The format guidelines for full research proposals, found in the administrative provisions for the Program at § 3415.4(d), should be followed for the preparation of proposals under the Program in FY 1998. (Note that the Department elects not to solicit preproposals in FY 1998.)

Compliance With the National Environmental Policy Act (NEPA)

As outlined in 7 CFR Part 3407 and 7 CFR Part 520 (the CSREES and ARS regulations implementing the National Environmental Policy Act of 1969), environmental data for any proposed project is to be provided to CSREES and ARS so that CSREES and ARS may determine whether any further action is needed. Form CSREES–1234, ''NEPA Exclusions Form'' (copy in Application Kit), indicating the applicant's opinion of whether or not the project falls within one or more categorical exclusions, along with supporting documentation, must be included in the proposal. The applicant shall review the following categorical exclusions and determine if the proposed project may fall within one of the categories:

(1) Department of Agriculture Categorical Exclusions (7 CFR 1b.3)

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law enforcement and investigative activities;

(vi) Activities which are advisory and consultative to other agencies and public and private entities; and

(vii) Activities related to trade representation and market development activities abroad.

(2) CSREES and ARS Categorical Exclusions (7 CFR 3407.6 and 7 CFR 520.5)

Based on previous experience, the following categories of CSREES and ARS actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment:

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small, isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

In order for CSREES and ARS to determine whether any further action is

needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, a separate statement must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefor. If it is the applicant's opinion that the project proposed falls within the categorical exclusions, the specific exclusions must be identified. The information submitted shall be identified as ''NEPA Considerations'' and the narrative statement shall be placed after the coversheet of the proposal.

Even though a project may fall within the categorical exclusions, CSREES and ARS may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

Proposal Submission and Due Date

What To Submit

An original and 14 copies of a proposal must be submitted. Proposals should be typed on one side of the page only. Each copy of each proposal must be stapled securely in the upper lefthand corner (DO NOT BIND). All copies of the proposal must be submitted in one package.

Where and When To Submit

Proposals must be postmarked by March 24, 1998 to be eligible for the program. Proposals received after the deadline date of March 24, 1998, as indicated either by the postmark date on First Class or express mail, or by the date on a courier bill of lading, will be returned without review. Proposals must be sent to the following address: Biotechnology Risk Assessment Research Grants Program, c/o Proposal Services Unit, Grants Management Branch, Office of Extramural Programs, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2245, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2245, Telephone: (202) 401–5048.

Proposals delivered by hand must be received at the following address by March 24, 1998 (note that the zip code differs from that shown above): Biotechnology Risk Assessment Research Grants Program, c/o Proposal Services Unit, Grants Management Branch, Office of Extramural Programs, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, Room 303, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, Telephone: (202) 401–5048.

Additional Information

The Biotechnology Risk Assessment Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.219. For reasons set forth in the final rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, D.C., on this 15 day of December, 1997.

Colien Hefferan,

Associate Administrator, Cooperative State Research, Education, and Extension Service.

Edward B. Knipling,

Associate Administrator, Agricultural Research Service.

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Wednesday
December 24, 1997

Part V

Department of Transportation

Coast Guard

33 CFR Part 96

46 CFR Part 2, et al.

International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code); Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 96

46 CFR Parts 2, 31, 71, 91, 107, 115, 126, 175, 176, and 189

[CGD 95–073]

RIN 2115–AF44

International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code)

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In a Notice of Proposed Rulemaking (NPRM) published on May 1, 1997, the Coast Guard proposed national regulations for responsible persons and their vessel(s) engaged on international and domestic voyages, to develop safety management systems to enhance vessel operating safety at sea, prevent human injury or loss of life, and avoid damage to the environment, in particular to the marine environment, and to property. Section 602 of the Coast Guard Authorization Act of 1996 (Pub. L. 104–324) requires this action. This final rule completes those standards which will allow U.S. vessels that are certificated to engage on international voyages to meet the mandatory certification requirements, or voluntarily meet these safety standards for domestic voyages. It also provides standards to permit recognized organizations to apply for authorization from the U.S. to complete external audits and issue international convention certificates for U.S. vessels on behalf of the U.S.

DATES: This final rule is effective on January 23, 1998. The incorporation by reference of certain publications listed in the rule are approved by the Director of the Federal Register on January 23, 1998.

ADDRESSES: Unless indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Gauvin, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–1053, or fax (202) 267–4570.

SUPPLEMENTARY INFORMATION:

Regulatory History

In May of 1994, the ISM Code was adopted as Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended. The ISM Code's adoption occurred at the International Maritime Organization's (IMO's) Conference of Contracting Governments to SOLAS in London at IMO's Headquarters.

On October 19, 1996, the President signed into law the Coast Guard Authorization Act of 1996 as Pub. L. 104–324, 110 Stat. 3901. Section 602 of the Act added Chapter 32 to Title 46 U.S. Code, ''Management of Vessels.'' 46 U.S.C. 3203 mandated the Secretary of Transportation to develop regulations for the implementation of safety management systems which are consistent with the International Safety Management (ISM) Code, for vessels and their companies which are engaged on foreign voyages.

On April 24, 1997, the Secretary of Transportation delegated to the Commandant of the Coast Guard the responsibilities under 46 U.S.C. Chapter 32 and 46 U.S.C. 3103 for the implementation and enforcement of safety management systems on U.S. vessels engaged on foreign voyages. This delegation was published as a final rule in the **Federal Register** (62 FR 19935) and codified in 49 CFR 1.46 (fff) and (ggg).

On May 1, 1997, the Coast Guard published a NPRM (62 FR 23705) in the **Federal Register** on implementation standards for safety management systems for vessels and their companies that are certificated to engage on international voyages. These proposed regulations provided standards for:

- The development and compliance of safety management systems for U.S. vessels and their companies;
- Mandatory certification of safety management systems to international levels;
- Voluntary certification of safety management systems for U.S. domestic trading vessels; and
- Authorization by the U.S. to organizations to complete external audits and certification of U.S. vessels required to meet the U.S. and international safety management system standards.

The NPRM comment period closed on July 30, 1997. During the 90 day comment period, 51 documents were received that contained 118 comments. Seventeen comments requested public hearings but none were held. Reasons for not holding public hearings before the publishing of this rule are explained in the ''Discussion of Comments and Changes'' section of this rule.

Background and Purpose

This rule is necessary to fulfill the mandates of 46 U.S.C. 3203, as added by section 602 of the Coast Guard Authorization Act of 1996 (Pub. L. 104–324, 110 Stat. 3901). The purpose of this rule is to establish national safety management system standards and requirements for the development, documentation, auditing, and completion of certification by vessel owners or responsible persons. These vessel safety management system regulations are consistent with the international regulations of Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended. Chapter IX of SOLAS requires that all vessels to which SOLAS is applicable, and their companies, have effective safety management systems developed to meet the performance elements of the International Safety Management (ISM) Code (International Maritime Organization (IMO) Resolution A.741(18)).

The development of these requirements has been fueled by the continued occurrences of significant marine casualties despite engineering and technological innovations to stop such casualties over the last two decades. In an effort to further reduce these casualties, the Coast Guard evaluated the role of the ''human element'' in the maritime safety equation. Recent casualty studies concluded that in excess of 80 percent of all high consequence marine casualties may be directly or indirectly attributable to the ''human element.'' Consequently, the international maritime community saw the need to emphasize shipboard safety management practices to minimize human errors or omissions. These types of errors play a part in virtually every casualty, including those where structural or equipment failure may be the direct cause.

The U.S. has been at the forefront providing input, analysis and direction for the IMO's development of these international regulations. The U.S. recognized that the human element needed to be addressed and initiated the Prevention Through People (PTP) program which examines and defines the critical role that the human element plays in maritime safety. The PTP concept asserts that safe and profitable operations require a systematic approach toward the constant and

balanced interaction between the elements of management, the work environment, individual behavior, and appropriate technology. The ISM Code offers a systematic approach to mariners with the policy and procedures needed to understand their duties and address the human element issues and risks that can prevent casualties from occurring. The voluntary certification of safety management systems by U.S. vessels in domestic trade supports the PTP strategies to bring government and industry together in making cultural change and partnerships to address the human element in maritime operations and pollution prevention.

Accordingly, the Coast Guard endorsed the guidance provided by the ISM Code in IMO Resolution A.741(18), and provided it as a reference in Navigation and Vessel Inspection Circular No. 2–94 (NVIC 2–94) published March 15, 1994, ''Guidance Regarding Voluntary Compliance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention.''

In May 1994, Chapter IX of SOLAS, ''Management for the Safe Operation of Ships,'' was adopted by the U.S. at the IMO's Conference of Contracting Governments to SOLAS, 1974. Chapter IX of SOLAS mandates that all vessels subject to SOLAS, and their companies, have effective safety management systems developed and in use that conform to the performance elements of the ISM Code (IMO Resolution A.741(18)). Companies whose U.S. flag vessels trade internationally (engaged on a foreign voyage) and are subject to SOLAS, must have their safety management system externally audited and must receive the appropriate international certificates from the U.S. or from an organization authorized to act on behalf of the U.S.

The ISM Code marks a significant philosophical shift in the maritime community's approach to safety by recognizing the human element's role in preventing marine casualties and ensuring vessels are operated responsibly in accordance with domestic and international standards. The ISM Code is seen as a major contributor to industry's self-evaluation and actions to address the human element concerns. It is intended to change the current approach of regulatory compliance from industry's passive defect notification and correction response mode to an aggressive approach to safety and environmental protection. Under this proactive approach, potential discrepancies are resolved by the companies themselves before casualties or incidents that can adversely impact the marine environment can occur.

The ISM Code performance elements require the development of safety management systems which document and communicate the owner's operation policy, chain of authority, and operational and emergency procedures. It also requires management reviews, internal audits and correction(s) of non-conformities as directed by company's management procedures. The documentation of a safety management system provides the basis for auditing an employee's knowledge, ashore and afloat, of the company's procedures and policies. It illustrates owner, manager and Master responsibilities specifically and ensures awareness of national and international standards in the system's procedures.

The ISM Code performance standards are broad based to allow flexibility for the differences that each responsible person has to work with in managing a variety of vessels or just one. A safety management system is seen as a living system that will change and grow as the responsible person, his or her managers and shore-based and vessel-based personnel see the need for change, or as technology and vessel operations change. The best safety management system is one where there is commitment from the top management of the company and its personnel to act safely and in an environmentally responsible manner at all times. The accessibility of senior management throughout the development of the safety management system and throughout the systems life, is also a key factor to its success.

To ensure that the U.S. public and maritime industry understood the mandatory requirements of the ISM Code, the Coast Guard published a notice in the **Federal Register** on October 5, 1995 (60 FR 52143). This notice explained the adoption of the ISM Code by the Contracting Parties of SOLAS, and scheduled four public meetings held at the following times and locations:

October 30, 1995, Federal Building, Seattle, Washington;

November 1, 1995, Port Authority Building, Long Beach, California;

November 13, 1995, Holiday Inn Downtown, New Orleans, Louisiana; and

November 16, 1995, Port Authority Building, New York City, New York.

At these public meetings, the Coast Guard received comments on implementation of the international requirements and provide a presentation on the U.S.'s voluntary safety management system guidelines in NVIC 2–94. Comments received at these meetings were audiotaped and are a part of this docket.

Discussion of Comments and Changes

The Coast Guard received a total of 51 documents containing 118 comments to the public docket. This section of the preamble discusses the comments received and the Coast Guard's responses and changes to the proposed rule. This section is divided into three parts. First, we discuss the comments that request public hearings. Second, we discuss the comments on specific CFR cites. Third, we discuss the general comments concerning other issues relating to this rulemaking and the implementation of safety management system requirements.

Comments Requesting Public Hearings

Sixteen comments requested a public hearing to discuss the requirements in 33 CFR 96.250(f)(4), involving the determination of medical fitness for seafarers. The concern expressed was that this section permitted amendments to the standards that determined the medical fitness of mariners. The Coast Guard is not amending any regulations or standards regarding the determination of medical fitness for mariners as part of this rulemaking. This rulemaking only requires that the responsible person provide procedures or policies in the safety management system on how these existing requirements are managed by the company. We do not intend to hold public hearings due to these requests, as they would require actions on regulations outside the scope of this rulemaking. We understand the importance of these requests and asked the Executive Director of the Merchant Marine Personnel Advisory Committee (MERPAC) to place these comments and concerns on the Committee's working agenda to discuss in its public meetings with the Coast Guard. The Executive Director of MERPAC and the Committee's Chairperson agreed to place it on MERPAC's working agenda.

MERPAC is a federal advisory committee appointed by the Secretary of the Department of Transportation under the Federal Advisory Committee Act (5 U.S.C. App. 2). MERPAC is composed of marine industry personnel appointed to advise the Coast Guard on merchant marine issues. The Committee offers an open forum to hear individuals, groups or industry specific concerns, then works to provide the Coast Guard with recommendations as to what actions may be needed. MERPAC has addressed the issue of mariner's physical fitness

standards in the past and will, when changes are proposed, address it in the future. MERPAC's next meeting is scheduled for May 1, 1998. A notice announcing the Committee's working agenda, schedule and place of meeting will be published in the **Federal Register**.

One comment requested a public hearing if the Coast Guard does not plan to include specific protections for the Northern Right Whale in the final rule. The focus of the proposed rule is to implement safety management systems consistent with the ISM Code. The Coast Guard does not intend to hold a public hearing in response to this request. Comments about protection of the Northern Right Whale and the ISM Code are addressed in detail in the final section of these comment responses.

Comments Relating to Specific CFR Sections

All changes to each section of the rule are discussed within the following paragraphs.

1. 33 CFR 96.110, 96.210, and 96.310. Four comments were received on these sections which discussed who these subparts apply to. Two comments found the use of the terminology ''trades in U.S. waters,'' or ''on an international voyage,'' or ''engaged on a foreign voyage'' to be confusing in determining which vessels and persons must comply with the proposed regulations. One comment requested that ''vessel engaged on a foreign voyage,'' be used throughout the rulemaking as it conforms to the statutory requirements of 46 U.S.C. 3201. We agree and amend proposed §§ 96.110, 96.210 and 96.310, to use the phrase, ''vessel engaged on a foreign voyage,'' as defined in § 96.120.

For purposes of clarification regarding foreign vessel voyages that come under U.S. jurisdiction, the Coast Guard amends §§ 96.110(c), 96.210(a)(3) and 96.310(c), by adding the words, ''bound for ports or places under the jurisdiction of the U.S.'' This will ensure that a foreign vessel or self-propelled mobile offshore drilling unit (MODU) are held accountable to the requirements and certification of safety management systems when navigating in U.S. waters. A foreign vessel engaged on a foreign voyage, involving innocent passage through waters subject to the jurisdiction of the U.S. will not be boarded under these regulations.

The second and third of these comments also discussed the use of the phrase, ''on an international voyage'' in 46 CFR 31.40–30(a), 71.75–13(a), 91.60–30(a), 107.415(a), 115.925(a), 126.480(a), 176.925(a), and 189.60–30(a). The Coast Guard does not agree with a need to change this phrase. ''On an international voyage'' is described in 46 CFR 2.01–8, entitled ''Application of regulations to vessels or tankships on an international voyage.'' For consistency throughout title 46 CFR, we have not changed the final rule.

The fourth comment on these sections recommends that a specific subpart be developed for foreign vessel requirements, separate from regulations for U.S. vessels in subparts A, B and C. The comment suggested that this new subpart include requirements for foreign vessels whose countries are parties to SOLAS and those vessels whose countries are not, similar to 33 CFR 96.370. The Coast Guard disagrees that a separate subpart is needed, but has added language in § 96.390(a) to ensure that it is understood that actions for safety management system certification by vessels whose countries are a party to SOLAS are acceptable as an equivalent to the requirements of 33 CFR part 96, subparts B and C. Further discussions of this matter are found in paragraph 27 of this comment reply section of the final rule preamble.

The Coast Guard amended § 96.210(a)(2)(I) by removing the word ''passenger'' in that sentence. Under 46 U.S.C. 3202(a)(1)(A) ''a vessel transporting more than 12 passengers * * *'' must comply with these regulations, not just a passenger vessel. The Coast Guard removed this word to ensure the meaning that all vessels carrying more than 12 passengers, not just passenger vessels, must comply with these regulations.

The Coast Guard amended §§ 96.210(a)(2)(i) and (d)(1)(i), 96.330(a) and (d), 96.340(a) and (d), 96.370(a), and 96.390(a)(2) as the statements were to require that these sections applied to vessels transporting or carrying ''more than 12 passengers'' as stated in 46 U.S.C. 3202(a)(1)(A), and not ''12 or more passengers.''

2. 33 CFR 96.120. Five comments were received on definitions in this section. One comment requested that a definition for ''designated person'' be added to this section to ensure that this person's responsibilities for overseeing the safety management system is not confused with the responsibilities of the ''responsible person.'' It should also be understood that a responsible person with a large fleet of vessels can assign the responsibility of the designated person to more than one employee, or that a designated person could be responsible for more than one vessel. The Coast Guard agrees with the comment and has added a definition for designated person to this section.

One comment requested that the term ''responsible person'' be replaced by the term ''owner'' because of possible confusion with the term ''responsible party,'' which is defined in the Oil Pollution Act of 1990 (OPA 90). The Coast Guard does not agree with this comment and has not changed the definition of the ''responsible person.'' Responsible party is defined in section 1001(32) of OPA 90 to clarify liability of the owners and operators of vessels, onshore facilities, offshore facilities, deepwater ports, and pipelines in the event of an oil spill. The Coast Guard's definition of responsible person in this rulemaking clearly relates to responsbility surrounding the development and use of safety management systems ashore and aboard vessels.

One comment suggested redefining the term ''company'' to include the definition of an ''operator'' as defined in 30 CFR 250.2 of the Mineral and Management Service's regulations for offshore oil and gas exploration. The Coast Guard does not agree. There are times when a lessee or operator of an offshore oil or gas exploration vessel becomes responsible by contract with the owner of the vessel to assume the duties imposed by these rules. When this occurs, a written designation of that responsibility must be provided by the owner to the lessee or operator of the contracted vessel and placed in the documentation of the safety management system as required by the ISM Code. This is part of the safety management system's documents and reports required by § 96.250(b)(2), and there is no need to expand on the definition of ''company''.

One comment requested that the term ''recognized organization'' be changed to a ''member of the International Association of Classification Societies (IACS).'' The Coast Guard does not agree with this comment. Other organizations, outside the membership of IACS, may apply and be recognized if they meet the requirements of 46 CFR part 8. The regulations of that part do not limit the application or recognition of any organization because they are or are not, members of IACS. The Coast Guard has amended the definition of a recognized organization in this section to be clear on which requirements of 46 CFR part 8, an organization must meet to be accepted. As subparts C and D of 46 CFR part 8 provides requirements for other international certificate authorizations and the U.S. Alternate Compliance Program, which have no effect on U.S. ISM Code certification authorization, these subparts are removed from the definition. This

change of definition has also required changes to the language in the definition of an ''Authorized Organization Acting on behalf of the U.S.'' and §§ 96.400(a), 96.410 and 96.430(b) (formerly § 96.430(a)(5)). Also, we have removed the phrase ''national or international'' from the recognized organization definition for consistency with subpart D.

One comment inquired whether the phrase, ''vessel engaged on a foreign voyage'' includes the operation of U.S. flag oilfield crewboats to and from foreign ports during operations supporting oil exploration programs internationally. Such vessels that are offshore supply vessels (OSVs) of 500 gross tons or more, or are carrying more than 12 passengers, would be considered engaged on a foreign voyage under paragraph (b) of the term's definition. This definition states that a vessel is considered to be on a foreign voyage when, ''making a voyage between places outside the United States'' (§ 96.120). These crewboats must meet the requirements of 33 CFR part 96 and the ISM Code for safety management systems, when certificated for such voyages. No changes were made to the final rules in response to this comment.

In November 1997, the SOLAS Conference on the Safety of Bulk Carriers was held at IMO's headquarters in London. During this conference, a new Chapter XII of SOLAS was adopted, entitled ''Additional Safety Measures for Bulk Carriers.'' During deliberations on this new chapter of SOLAS an interpretation was adopted regarding the definition of a bulk carrier. This interpretation is found in Resolution 6 of the resolutions adopted by the conference. This interpretation pertains to the definition of bulk carrier in Regulation 1.6 of Chapter IX of SOLAS on the ISM Code, as well as the new Chapter XII on Bulk Carrier Safety. The definition in Chapter IX is, ''Bulk carrier means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers.'' The interpretation removes the ambiguity of the term ''constructed generally.'' Specifically, the resolution ''Urges SOLAS Contracting Governments to interpret the definition of the term ''bulk carrier'' given in regulation IX/1.6, for the purpose of the application of SOLAS regulation IX/2.1.2 * * * to mean: ships constructed with a single deck, top-side tanks and hopper side tanks in cargo spaces and intended primarily to carry dry cargo in bulk; or ore carriers; or combination carriers.'' Bulk carriers that meet this interpretation are required to meet the first effective date of the ISM Code, July 1, 1998. Other vessels, which carry bulk cargoes, but do not meet this interpretation, must meet the second effective date of the ISM Code (July 1, 2002), as required by § 96.210. The U.S. has decided to accept this IMO interpretation to SOLAS. This rulemaking has not defined bulk carriers, but intends to use all vessel type definitions as provided by Regulation 1 of Chapter IX of SOLAS. For clarity, we added a new paragraph (a) to the definition section to explain that we will use the definitions provided by Chapter IX of SOLAS, and not the definitions in Title 46 of the U.S. Code.

3. 33 CFR 96.230(a). Four comments were received on this paragraph. Two requested clarification whether these practices have to be in writing. One comment noted that requiring written practices would impose requirements on U.S. vessels that are not required on foreign vessels. We agree. Requiring these objectives in writing would extend U.S. vessel requirements beyond requirements for a foreign vessel under the ISM Code. This change would also require a foreign vessel that operates in the U.S. to complete further work on their safety management system that exceeds the requirements of the ISM Code. We amend the rule to remove the term ''written'' and have reworded the paragraph to ensure that the objectives required by this section are consistent with the ISM Code.

The third comment requested clarification of the term ''type'' of vessel, and suggested that this definition would have the same meaning as vessel ''category.'' This terminology is required to be used on the Document of Compliance certificate to illustrate what type of vessel(s) a company's safety management system is developed to manage. If the type of vessel(s) a responsible person owns changes, then the safety management system must be amended to include the specifics of managing the new or different vessel type. Vessel types are: passenger ship; passenger high-speed craft; cargo high-speed craft; bulk carrier; oil tanker; chemical tanker; gas carrier; MODU; and other cargo ship. The term ''cargo ship'' used to describe a vessel type under SOLAS has the same meaning as ''freight vessel'' for these regulations.

The final comment on this paragraph noted that, as drafted, the meaning of this paragraph could be interpreted to require the safety management system to provide a safe work environment ''for'' the vessel. The intent of the ISM Code is to require a safe working environment ''on board'' the vessel. The Coast Guard agrees with the comment and has reworded the paragraph to clarify its meaning and be consistent with the ISM Code.

4. 33 CFR 96.230(b) and 96.230(c). Five comments requested that we amend these paragraphs because the ''listing'' of safeguards and continuous improvement methods is not the same as ''establishing or implementing'' those safeguards. The Coast Guard agrees with the comments and amends paragraphs (b) and (c) accordingly.

5. 33 CFR 96.230(d). One comment requested that this paragraph be struck from the final rule because ensuring compliance with the many international, national, industry standards and codes is unworkable and a second comment requested that the term ''industry guidelines'' be expanded to ''maritime industry guidelines.'' We disagree that this paragraph is unworkable or should be struck, but have amended it to include maritime regulations and standards in the safety management system. It does not require any more actions than those already completed by foreign vessels under their ISM Code compliance responsibilities. The Coast Guard agrees with the comment recommending the use of the phrase, ''maritime industry guidelines'' and amends this paragraph in the final rule. To ensure clarity, we amended this paragraph to use the word ''relevant.''

6. 33 CFR 96.240(b). One comment discussed that this paragraph was unclear, because as drafted, it appeared that foreign vessels would be required to comply with U.S. national standards and U.S. regulations for ship construction and operation not normally applicable to foreign flag vessels. The comment pointed out that this is inconsistent with the ISM Code. This was not the intent of the proposed requirements. We have amended this paragraph to make it clear that foreign vessels need to follow U.S. regulations applicable to them when they operate in U.S. waters.

7. 33 CFR 96.240(c). One comment discussed that the documentation which describes the levels of communication was not a functional requirement of safety management systems. The comment suggests that requiring this documentation would be an arduous task with respect to the operation of a self-propelled MODU, because the organizational makeup of the vessel changes depending on whether the vessel is navigating, or is anchored in oil exploration operations. The Coast

Guard disagrees. The directions and management needed for this type of operation between the responsible person, the navigating crew, whomever manages the operational drilling crew and the supervising staff of the drilling crew aboard the MODU itself, is exactly the situation that this requirement addresses. No change has been made to this requirement in the final rule.

8. 33 CFR 96.240(d). One comment questioned the Coast Guard's authority to require ''near accident reporting'' in this paragraph, arguing that this was inconsistent with the ISM Code. We disagree. Section 9.1 of the ISM Code requires that, ''The safety management system should include procedures ensuring that non-conformities, accidents and hazardous situations are reported to the company, investigated and analyzed with the objective of improving safety and pollution prevention.'' The Coast Guard interprets that near-accident reporting is hazardous situation reporting. The Coast Guard has also reinforced the meaning of this requirement in the standards provided by § 96.250(i).

The comment also suggests amending this paragraph to conform to the ISM Code. Specifically, the comment suggests revising the language to say ''procedures for reporting * * * non-conformities with the ISM Code,'' as opposed to ''non-conformities with the safety management system.'' The Coast Guard disagrees that only non-conformities with the ISM Code should be included here. The functional requirements of a safety management system must ensure the continuous evaluation and appropriate improvement of the safety management system by the company's management. However, to ensure clarity this paragraph is amended.

One comment supported § 96.240(d) as drafted, and emphasized the importance of near-miss reporting and follow-up to establish lessons learned. We agree. The Coast Guard, in partnership with the Federal Maritime Administration (MARAD), is developing a nationwide voluntary near-miss accident reporting program to compile lessons learned for the education of mariners and maritime industry. When completed, the Coast Guard will publish policy on the use of the national near-miss accident reporting program and a responsible person's ability to use the U.S. national program to conform with the requirements of near-accident or hazardous situation reporting required by the ISM Code. The Coast Guard's program manager for this project is the Chief, Office of Investigations and Analysis (G-MOA), at Coast Guard Headquarters.

9. 33 CFR 96.240(e). One comment objected to the use of the word ''procedures'' in this paragraph stating that the functional requirements should define a ''process'' for ensuring an appropriate response to emergency situations. The Coast Guard disagrees because the paragraph, as drafted, is interpreted broadly and will define a process for response as required by the ISM Code. Multiple levels of management, such as on a MODU and third party managed vessel, need to define their ''processes'' in terms of procedures in a safety management system for it to work. Procedures that define these processes can be used as training tools, tracking tools, and action tools. This requirement does not require a new process to be developed if they are already in hand or developed under current regulation or management procedures. No change is made in response to this comment.

10. 33 CFR 96.240(g). Two comments discussed expanding this paragraph to include the use of objective internal safety assessments in place of internal auditing, and stated that safety management systems should be reviewed to evaluate their efficiency against established industry evaluation procedures. Both comments contain merit, and the Coast Guard agrees that the efficiency and measurement of safety management system impacts and their effectiveness should be determined. However, the Coast Guard disagrees with the need for such requirements in the final rule. The suggested requirements would extend managerial responsibility past the minimum requirements of the ISM Code. Therefore, no changes are made in response to this comment.

11. 33 CFR 96.250. Five comments were received on this section. One comment noted that both functional and documentary requirements are included in the table within § 96.250. The comment recommended referencing the documentary requirements of § 96.240 to the table within § 96.250. The Coast Guard does not agree that there is a need to cross reference the requirements of § 96.240, as the requirements for performance objectives documentation are already covered within the requirements of the table in § 96.250.

Four comments suggested that these regulations should contain provisions to protect records that are maintained as part of a safety management system. The comments request that the regulations be amended to prohibit use of these records in civil or administrative proceedings. Specific concerns were that the documentation and reporting requirements will contain sensitive company information that, while essential for purposes of company personnel use, should not be made publicly available for use in civil proceedings. The Coast Guard agrees that for a safety management system to work correctly and to be continuously self-improving, it requires the proactive actions of the responsible person to have reports completed on non-conformities and hazardous situations, no matter how minor or major, so that management reviews can be completed and corrections made to the safety management system accordingly. However, the Coast Guard cannot provide any protection for these records because to do so would exceed its authority granted in 46 U.S.C. Chapter 32. To clarify our intent, a note has been added at the end of the table in § 96.250, in the final rule.

12. 33 CFR 96.250(b). Three comments were received on this paragraph. The first comment requested clarification whether the requirement for the company's responsibility and authority statement should extend to all vessels owned by the responsible person, or just the vessels of the company that must comply with this part. The Coast Guard contends that it would be to the responsible person's benefit to have all vessels that he or she owns meet the safety management system requirements of this part. However, only vessels required to meet 33 CFR part 96, are required to be covered by this requirement.

The second comment discussed the possibility of confusion regarding the determination of the responsible person on a self-propelled MODU, between the owner, operator, lessee, or drilling contractor. The delineation of the relationships of these persons or companies involved in a MODU's operation should be explained by the company's policies and procedures. Proper explanation of these relationships in the safety management system ensures that personnel responsible for specific duties involving safe operation, and the services provided to the vessel by contracted personnel, will understand their responsibilities correctly thereby reducing human element errors which can cause accidents. It will also enhance the vessel's response to casualties and accidents, resulting in mitigation damages to the vessel and the environment, or injury to vessel personnel.

The third comment on this paragraph discussed subparagraph (b)(4), which requires the safety management system

to contain a statement that describes the company's responsibilities to ensure adequate resources. The comment further states that describing this responsibility in the safety management system does not necessarily mean that the company bears responsibility. We understand that vessel resources can be provided by a myriad of contract companies and personnel not under the direct control of the responsible person. Safe management does not point fingers but ensures communications so when problems develop, there are clear policies that employees can follow to make decisions. The reasoning that the performance objectives of these safety management system standards are so general is to allow them to be customized to specific type vessel operation for ease of the user. No changes have been made to the final rule due to these comments.

13. 33 CFR 96.250(c). One comment requested that the term ''oversee'' used in this paragraph, be changed to the word ''monitor'' to describe the actions required of the designated person. The Coast Guard agrees with this comment and amends this paragraph in the final rule.

14. 33 CFR 96.250(d). Three comments were received on this paragraph. One comment stated that not all vessels are certificated or required by the provisions of national regulations to have Masters, but instead may have Persons-In-Charge. The Coast Guard agrees with this comment, but has not amended the regulation. The Coast Guard uses the term Master to be consistent with the ISM Code. Additionally, all U.S. vessels mandatorily required to meet the safety management system requirements of this part are certificated to have Masters on board. The Coast Guard understands that there are vessels which can voluntarily meet these standards, such as non self-propelled MODUs, which are not required to have a Master but a Person-In-Charge as senior manager of the vessel. The Coast Guard is developing a new chapter in Volume II of it's Marine Safety Manual (MSM), on the U.S. safety management system compliance and enforcement policies which will be used by the Coast Guard and organizations authorized, to audit and certificate safety management systems. The Coast Guard has not amended this paragraph because the MSM guidance will clarify that the term ''Master'' includes a Person-In-Charge in this situation.

The other two comments questioned whether a vessel's Master is capable of having responsibility and authority over shore-based resources, and asked that such contentions be deleted from this paragraph. During some duties, the Master of the vessel will be the responsible person's representative contracting and supervising vessel support from shore-based resources, as well as directing resources from the vessel managing company. The safety management system should clearly describe these duties to allow the Master to understand his or her responsibilities and decision-making policies. This will also help shore-based resources understand their duties, their importance to the vessel, and their responsibilities to the vessel Master as a manager. The Coast Guard does not agree with these comments and has not amended this paragraph of the final rule.

15. 33 CFR 96.250(e). Two comments were received on this paragraph. One discussed that the Master of a vessel does not have overall authority for vessel operation because the Master's authority is overridden by flag state, coastal state, and numerous other governmental authorities. We respond that the Master is the responsible person's representative on the vessel and all authorities that can be expected of the Master should be supported by the safety management system. The Master has overriding responsibility and authority to ensure that the vessel is operated safely, and consistently with all applicable laws. When the Master is not specified, it is impossible to expect the individual employed as the Master to provide proper leadership or decision making clarity. Where the Master follows international, national, coastal, or local regulations or directions, regarding management of a vessel, he/she is making decisions on how to use these factors in the efficient and safe operation of the vessel taking into account the policies provided by the safety management system.

The second comment encouraged the Coast Guard to amend this paragraph by adding a subparagraph (3) which states, ''Responsibility with the bridge team and officers on watch to monitor navigation, collision avoidance, and communications while the ship is piloted.'' The Coast Guard does not agree that this statement needs to be added to this paragraph because this requirement for providing procedures for shipboard operations is covered by paragraphs (f) and (g) of the table in § 96.250. The Coast Guard has made no changes to the final rule due to either of these comments.

16. 33 CFR 96.250(f). Four comments were received on this paragraph. One comment discussed that the statement in § 96.250(f)(6) required knowledge of the relevant rules, regulations, codes and guidelines, which was a subtle difference from than ''an adequate understanding'' required by the ISM Code. We agree that this statement may be misinterpreted to require more than what would be consistent with the ISM Code and have changed the language accordingly.

One comment discussed that there should be an understanding that the documentation of training identified and required by other national regulations or international conventions, can be documented under the safety management system in compliance with these requirements and also meet the requirements for training and documentation of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW). The Coast Guard agrees with this comment, and this understanding is stated in NVIC 4–97 (Guidance on Company Rules and Responsibilities under the 1995 Amendments to the STCW). NVIC 4–97 states, ''If you operate your vessel under a safety management system (SMS) in compliance with the International Safety Management (ISM) Code and hold a valid Safety Management Certificate (SMC) and Document of Compliance issued by the Coast Guard under 46 U.S.C. 3205, you are presumed to be in compliance with STCW Regulation I/14.'' On the other hand, NVIC 7–97 (Guidance on the STCW Quality Standard System (QSS) for Merchant Mariner Courses or Training Programs), explains that, ''* * * In order for shipping companies that are ISM Code certified to have their training meet the STCW QSS requirement, their training program must meet the criteria in 46 CFR 10.309.

It should be remembered that documentation and training requirement programs developed by a company can cover a magnitude of different vessel type specific requirements. Each vessel type, under the umbrella of a company's safety management system, may only need to use those portions of the training and documentation program of the total company system that are applicable due to the vessel type, area of operation, or specific requirements under other conventions, laws or regulations. No changes were made to this section in response to this comment.

One comment discussed the need to reevaluate federal manning levels required on U.S. vessels, suggesting that current manning levels do not reflect the additional personnel which will be needed to satisfy the requirements of the

ISM Code. The comment stated that the ISM Code places more duties on vessel personnel than were expected when manning levels were established. The Coast Guard disagrees with this comment. We received comments from companies that have safety management systems in operation. They developed those safety management systems by initially reviewing existing company management policies and procedures. By doing this, they found numerous antiquated, unnecessary or duplicative management procedures and documentation which could be eliminated. Thus, they reduced the management overhead that they had been experiencing before placing the safety management system in operation. If policies are not needed due to changes in the company, management, regulations, policies, or for a number of other different reasons, then they should be removed or amended. By doing this the management system and oversight reporting is reduced in size, which does not increase the personnel needed to operate a vessel safely. No changes have been made to the final rules due to this comment.

The final comment on this paragraph recommends that all personnel should receive general safety management system familiarization when joining a vessel and also six further specific levels of training. These include: three support level training programs; two operational level training programs; and one level of management training programs. The Coast Guard supports a company's use of training, at whatever level necessary to ensure that policies and procedures of the management system are understood by their staffs aboard a vessel or working ashore in support of a vessel. We agree that if a company evaluates its safety management system and finds a need to develop training to ensure the proper understanding and use of the system, then the training should be initiated by that company. In NVIC 4–97, the Coast Guard recommended that ship-specific familiarization include directing a new crew member's attention to the vessel's safety management system. However, the Coast Guard has not made changes to this section of the final rule, as the comment requests additional training which exceeds the requirements of the ISM Code.

17. 33 CFR 96.250(j). Three comments were received on this paragraph. One comment requested that the format of the paragraph and subparagraphs be changed to mirror the ISM Code, and two comments requested that subparagraph (2) have the word ''non-conformity,'' changed to ''deficiency.'' The Coast Guard disagrees with the first comment and has not altered the format of this section or table in the final rule. The Coast Guard agrees that there may be confusion understanding subparagraph (2) and has added the words ''and deficiency'' after ''non-conformity'' to ensure that the requirement is understood.

18. 33 CFR 96.250(k). Two comments were received on the control of documentation required by this paragraph. One comment requested that the word ''destroyed'' be changed to ''removed'' in subparagraph (4). We agree with this request and amend the word in the final rule. The second comment stated that the meaning of data maintenance is unclear and that the complete paragraph does not provide specific direction on data control. The requirements for safety management systems were written in general performance element style to allow different types of companies to tailor their systems to their specific needs. Some companies may use paper based systems, other computer based, a third company a mixture of both. No matter how this data is displayed or communicated, it will be controlled equally and in compliance with these standards. The Coast Guard disagrees that further amendments are needed, because these standards allow flexibility for development of systems documentation. Consequently, we have not made any changes to the final rule due to this comment.

19. 33 CFR 96.250(l). Two comments were received on this paragraph. One comment requested the word ''deficiencies,'' in subparagraph (4) be changed to ''non-conformities,'' to conform with the ISM Code. In this case, the Coast Guard agrees that confusion could occur on what requires timely action for the system and has added the words ''non-conformities or'' before the word ''deficiencies'' in subparagraph (4) in the final rule.

The second comment stated that proposed section § 96.240 of the regulations should include the requirements of section 12 of the ISM Code that require evaluating the efficiency of the system and reviewing the safety management system with established procedures. The Coast Guard agrees and notes that these requirements are already included in § 96.250(l)(1). Critical management review of the system, as well as non-conformity and deficiency reports, are necessary to evaluate whether the system is running properly. No changes to the text of the final regulations were made due to this comment.

20. 33 CFR 96.320(f). Three comments were received on this section regarding the reporting of non-conformities to the company's owner or vessel's Master at completion of a safety management audit. The comments requested that this paragraph be amended to require auditors to issue reports of non-conformities to the company's owner and vessel's Master. It was also recommended that the safety management system's designated person receive copies of this reports as well. The Coast Guard agrees in part and amends this section to require auditors to provide these reports to a company's owner when the company is audited, and to a vessel's owners and Master when a vessel is audited. If a company wants its designated person to receive a copy of this non-conformity report, it is recommended that this request be made to the auditors prior to the audit being completed on behalf of the company.

21. 33 CFR 96.330. One comment expressed concern that this section would require multiple Document of Compliance certificates to be issued by each flag state for a multi-flagged fleet under one responsible person's ownership. Multiple certificates may not be required as the international interpretation for their issuance allows flag states to agree to accept each others certificates for safety management system compliance. Each situation may be different and to verify the U.S. acceptance of other flag state certificates contact Commandant (G–MOC–2), Vessel Compliance Division, 2100 Second Street SW., Washington DC 20593–0001 in writing, by telephone (202) 267–1464, or by facsimile (202) 267–0506. No changes were made to this section of the final rule due to this comment.

22. 33 CFR 96.330(f). One comment requested that this paragraph be amended because it requires the Document of Compliance certificate to be verified annually, instead of the company's safety management system. The Coast Guard agrees and amends this paragraph to ensure the verification of the system and not the certificate in the final rule.

23. 33 CFR 96.330(g)(1), 96.340(g)(1), and 96.340(f). Four comments were received on these paragraphs. Two comments requested that the revocation of a Document of Compliance certificate or Safety Management Certificate not be based on the failure of the responsible person to request an audit, but rather on the failure to complete an audit. The Coast Guard agrees with this comment and amends these paragraphs in the final rule.

The next comment pointed out that when a vessel is laid up or taken out of service for a period of time the Safety Management Certificate may lapse, if the vessel is unmanned for long periods of time. Because there are no personnel working under a safety management system when a vessel is laid up, the certificate cannot be validated or endorsed. When brought back into service, the responsible person can request that an initial audit of the vessel be completed when the vessel is remanned, and a new Safety Management Certificate can be issued. No change to the final rule was made due to this comment.

The last comment stated that § 96.340(f) should be amended as it requires foreign vessels to meet U.S. requirements for safety management system audits. A foreign vessel which is certificated by its flag state or by an organization who acting on behalf of the flag state, completes a safety management system audit following the guidelines of IMO Resolution A.788(19), meeting the same requirements found in these regulations. The Coast Guard will accept such a determination as required by the articles of SOLAS. No changes have been made to this section of the final rule due to this comment.

The Coast Guard has added wording to § 96.330(g), with a new subparagraph (3), to ensure that their personnel and auditors of an authorized organization acting on their behalf, can complete audits and reviews of safety management systems properly and effectively. A Document of Compliance certificate may be revoked if the Coast Guard or an authorized organization is denied or restricted access to the vessel, records, or personnel necessary to ensure compliance with 33 CFR part 96. Neither the Coast Guard, nor an authorized organization acting on its behalf, should be expected to certificate compliance with any international convention regulation, unless all needed information and records for that review are provided by the vessel's or company's personnel.

24. 33 CFR 96.340(e)(2). One comment requested that the wording in this section regarding the ''anniversary date'' of the intermediate verification audit be amended for clarity. The Coast Guard agrees and amended the final rule with the words ''period of validity'' rather than the ''anniversary date.''

25. 33 CFR 96.360(a)(2). One comment was received on this section which requested a determination of ''* * * a U.S. vessel which is new to the responsible person or their company.'' For an interim Safety Management Certificate to be issued, this vessel would be considered an individual vessel that was just purchased by or just brought under the management of a responsible person. No change to the final rule was made due to this comment.

26. 33 CFR 96.380. Two comments were received on this section. One comment stated that the use of a civil penalty under 46 USC 3318 is not consistent with the law for violations of compliance with documentation responsibilities under these regulations. The comment went further to state that a suitable grace period for the production of certificate copies, or a grace period to bring the vessel into compliance, along the line of a formal requirement (CG Form 835) be issued prior to actions to assess a civil penalty. The requirement as written states that the ''* * * vessel owner, charterer, managing operator, agent, Master, or any other individual in charge of the vessel that is subject to this part, may be liable for a civil penalty * * *.'' The proposed regulations do not say that the Coast Guard must pursue a civil penalty.

Traditionally, the Coast Guard has considered all possible administrative actions in dealing with incidents of non-compliance. The Coast Guard wrote this section to ensure that affected companies and individuals were aware that civil penalties were a possible sanction for violations of these regulations. It is the Coast Guard's opinion that civil penalties authorized under 46 U.S.C. 3318 apply to violations of these regulations because these penalty provisions are applicable to violations of laws and regulations issued under the authority of 46 U.S.C. Part B, which includes 46 U.S.C. Chapter 32.

The second comment discussed concerns surrounding § 96.380(a)(2), which allows the Coast Guard to board a vessel to verify that the vessel's crew or shore-based personnel are following the procedures and policies of the safety management system while operating the vessel or transferring cargoes. The comment concluded that this action would go well beyond the authority internationally recognized for port state control examinations found in SOLAS: Chapter I, regulation 19; Chapter IX, regulation 6; Chapter XI, regulation 4; as well as the IMO Procedures for Port State Control. The comment also requested that we modify this subparagraph to conform with internationally recognized port state control guidelines. The comment further requested that we draft Coast Guard policy on these actions and distribute them for comment to the maritime industry prior to their implementation.

The Coast Guard is working to complete policy development which falls into line with this request. A port state control NVIC is being developed which describes the Coast Guard boarding policy for foreign vessels including examination of the vessel safety management system and certificates. This NVIC will discuss normal actions during a port state control examination of a foreign vessel by the U.S., and what clear grounds must be found of observed non-compliance with a safety management system before an expanded Coast Guard examination will be completed. The Coast Guard expects to have this NVIC published in the same time frame as this final rule. However, we disagree that this policy requires review and comment by the maritime industry. These procedures for safety management system evaluation fall in-line with the U.S. port state control program already in existence and meets the port state control regulations of SOLAS and the IMO Procedures for Port State Control. No changes have been made to this section of the final rule due to this comment.

27. 33 CFR 96.390(a). One comment stated that this subparagraph would prohibit Coast Guard acceptance of foreign issued international management certificates which met SOLAS guidelines, unless they would attest to full compliance with U.S. regulations. The Coast Guard agrees that as written, this requirement provides a limitation of acceptance of foreign issued certificates which is not consistent with SOLAS. This subparagraph has been amended in the final rule to ensure that such certificates would be acceptable when issued in accordance with Chapter IX of SOLAS and the IMO Guidelines for Contracting Parties to SOLAS.

28. 33 CFR 96, Part D. Two comments were received regarding organizations who have applied to be recognized and are authorized to complete external audits and certification of safety management systems for U.S. vessels and their companies. One comment questioned the use of the term ''expertise,'' and whether that term encompassed the marine field, quality systems, or both, and whether this authorization should be limited to classification societies. The comment further stated that anyone with an appropriate marine business and academic background is qualified to act on behalf of the U.S. in ISM Code auditing and certification.

These requirements are based in part, on the guidelines provided by IMO Resolution A.739(18), which are

incorporated by reference in § 96.130. These international guidelines provide minimum standards to ensure organizations authorized by any flag state, worldwide, will provide uniform actions and oversight when their personnel complete actions regarding vessel surveying and auditing in the marine field. This is important to the owner of a vessel and the flag state, because as it ensures that the international certificates issued by authorized organizations acting on behalf of a flag state, will be accepted worldwide, on face value, for compliance with international conventions. The Coast Guard disagrees that ''just anyone'' can meet these requirements. Coast Guard requirements for recognition of organizations are rigorous and conform to the IMO guidelines. The Coast Guard expects and will ensure that actions by an organization acting on its behalf are incontestable under any port state scrutiny. Any organization, with a proven history of marine experience working with and making decisions based on maritime industry standards, national standards and regulations, and international guidelines and conventions, may meet these requirements. The organization, due to the auditing expertise needed for ISM Code certification, must also provide a certified level of standards that it can meet for its personnel to complete audits. The requirements are restrictive because the Coast Guard must ensure that the U.S. marine transportation industry is able to operate, uninterrupted, worldwide.

The second comment on this part recommended that organizations already accepted by the Coast Guard to issue voluntary certificates, under NVIC 2–94, should be automatically authorized to issue mandatory ISM Code certificates on behalf of the U.S. without having to reapply under these regulations. The Coast Guard disagrees and expects these organizations will apply under this part. No changes were made to this section of the final rule due to these comments.

29. 33 CFR 96.410. One comment was received on this section which stated that the term ''safety management certificates'' should not be used in this section because it has a specific meaning, and should not be used to refer to these certificates in a general way. The Coast Guard agrees with this comment and has changed this section to eliminate confusion. The Coast Guard has also edited this section to make it easier to read by removing the words ''wish to'' from this section.

30. 33 CFR 96.430. Four comments were received on this section. One comment discussed the reciprocity requirement of 46 U.S.C. 3316 for a foreign classification society to be authorized to act on behalf of the U.S. to complete external audits and certification of safety management systems. The comment stated reciprocity with ABS should not be required because a subsidiary corporate entity of ABS is providing these functions, not ABS, thus there is no need for the documentation of reciprocity by a foreign classification society. The Coast Guard does not agree. Currently, ABS certification comes under the voluntary system of NVIC 2–94 which is not subject to the provisions of 46 U.S.C. 3316. Under these regulations, all future written agreements for authorization to act on behalf of the U.S. regarding the mandatory certification of safety management systems will be made with ABS under the provisions of 46 U.S.C. 3316. Under this agreement, ABS will not be able to use subsidiary group offices to complete these actions for the U.S. No change was made in the final rule due to this comment.

The second comment recommended that the Coast Guard also accept the quality standards of ASQC Q9002 and quality management standards of ASQC C9001 and C9002. The Coast Guard disagrees. Under 46 CFR 8.230(a)(15), an organization must meet ANSI/ASQC Q9001 or an equivalent quality standard to be recognized. No other quality standard is incorporated in 46 CFR part 8. For purposes of consistency, no others will be incorporated here either. Quality management standards (ASQC C9001 and C9002) are not required for recognition of an organization, so none will be required here. No changes have been made to this section of the final rule due to this comment.

The third and fourth comments on this section questioned the terminology used in § 96.430(a)(3), and inquired whether a recognized organization could use subsidiary organizations and their auditors to carry out audits and certification in accordance with the IMO guidelines and the ISM Code. The Coast Guard disagrees and has explicitly written this subparagraph to ensure that only exclusive auditors of organizations authorized to act on behalf of the U.S. are used by these organizations to complete audits under this authorization. When the Coast Guard reviews an organization's application for authorization authority under this subpart, quality standards must: (1) Demonstrate how the organization selected individuals as auditors; (2) explain training and recertification methods; and (3) describe the code of ethics the auditors must follow. An organization's auditor standards will be approved as part of the organization's application package to be authorized to act on behalf of the U.S., and will be part of the U.S. written agreement with the organization as required by § 96.440(c). No change was made to this section of the final rule due to these comments.

As the reciprocity requirement effects only foreign classification societies which can be authorized to act on behalf of the Coast Guard under this section, old paragraph (a)(5) of this section has become a new paragraph (b) for clarity. Old paragraph (b) is now paragraph (c).

31. 33 CFR 96.480. One comment cautioned that the termination of authority from an organization acting on behalf of the U.S. could have extreme consequences on vessel operation for vessels certificated by that organization. Specific concern was expressed for situations in which the vessel's Safety Management Certificate is near expiration when the authorization is terminated. Also, the comment questioned the obligatory notification requirements of companies and vessels certificated by the terminated organization. In all cases, the Coast Guard will request information from the administrative files of the organization being terminated to understand the effect of termination on the companies and vessels certificated by the organization. The Coast Guard will assist any company and vessel to maintain certification while transferring to another authorized organization. The original certificates of the terminated organization will remain valid until expiration or periodic audit which will allow continuity with a new authorized organization. There should be no extra cost for the company or vessel as the audit actions required by the new organization are the same actions that would have been completed by the original certifying organization. This paragraph was also edited to ensure clarity.

The Coast Guard will enter into a written agreement with all organizations receiving authorization under this part, as stated in § 96.460. Failure to notify affected companies or vessels upon termination of authority for safety management system certification, will result in a review by the Coast Guard of the ability of the organization to complete any actions on behalf of the Coast Guard. Additionally, this termination could affect any or all other delegated authorities, in such a

situation. The final rule was not changed due to these comments.

32. 46 CFR 126.480(a). Three comments were received on this section. Two comments discussed the use of the phrase ''offshore supply vessels (OSVs) engaged on foreign voyages'' and questioned the applicability of the 33 CFR part 96 on OSVs and ocean-going towing vessels certificated for international voyages. The applicability of those regulations to OSVs and towing vessels on international voyages is determined by whether these vessels are over 500 gross tons and are ''vessel(s) engaged on a foreign voyage'' as that term is defined in 46 U.S.C. 3201 and this part. No change was made to the final rule due to these comments.

The final comment sought clarification when the ISM Code applied to OSVs and ocean-going towing vessels under the vessel admeasurement system. The ISM Code applies to vessels engaged on a foreign voyage. In the case of OSVs and ocean-going towing vessels, the ISM Code applies only if the vessel is 500 gross tons or greater, as OSVs and towing vessels are considered freight (cargo) vessels for purposes of SOLAS. Because the applicability of the statue implementing the ISM Code provisions is based on tonnage (see 46 U.S.C. 3202) and this statute was enacted after July 18, 1994, its applicability to vessels is based on their international convention tonnage because of 46 U.S.C. 14302(b). However, under 46 U.S.C. 14305, a vessel owner may request that a vessel be measured under the regulatory tonnage system and under those circumstances the applicability of SOLAS, as well as the other enumerated statutes, would be based on the vessel's regulatory tonnage. This means that the owner of an OSV or towing vessel that has a convention tonnage greater than 500 gross tons could elect to have the vessel admeasured under the regulatory tonnage system, and if the vessel had a regulatory tonnage of less than 500 gross tons, these regulations would not apply. However, the applicability of all other laws enumerated in 46 U.S.C. 14305 would also be determined based on the optional regulatory tonnage (see 46 U.S.C. 14305(b)). NVIC 11–93, Change 2, discusses when regulatory tonnages may be used by a vessel owner to determine the applicability of SOLAS requirements. No changes in the final rule have been made as a result of these comments.

33. 46 CFR 175.540(d). Four comments were received on this section. One comment stated that the applicability of the requirements of 33 CFR part 96 are mitigated by the addition of paragraph (d) to this section of the regulations for small passenger vessels. This amendment does not mitigate or soften the applicability. This paragraph provides an equivalent means for these small vessel owners to meet the safety management system requirements. An equivalence is not an exemption. The Coast Guard developed a job aid with the assistance of a marine industry working group. This job aid can be used as an example of what an owner of a small passenger vessel may do to establish an equivalent safety management system. Section 175.540(d) does not reduce the effectiveness of the safety management system, but instead provides direction to these small passenger vessel owners to help them develop their systems so they can be certificated by the cognizant Coast Guard OCMI.

Two comments did not support an exemption for small passenger vessels due to their limited operation or company sizes. The Coast Guard disagrees. These vessels are not being exempted from the requirements, but are offered a cost-effective course of action to implement the regulations due to their size, limitation of operation, and historical low risk with proven safety records. The Coast Guard job aid developed for these vessels provides a customized safety management system program, which will support small passenger vessels with limited international routes. It does not remove any of the requirements of 33 CFR part 96. A small passenger vessel owner can request a job aid at no charge from the local cognizant OCMI.

The final comment requested clarification whether the Coast Guard would allow a small passenger vessel approved and actively using the Streamlined Inspection Program (SIP) to use that program as an equivalent to the safety management system requirements. The SIP program is based on performance elements similar to the safety management system requirements. The Coast Guard may allow this if an owner developed a program that included all the requirements of 33 CFR part 96. This program would be provided to the cognizant OCMI for review and acceptance after discussion and recommendations are received from the authorized organization certificating the safety management system. However, the Coast Guard made no changes or amendments to this section due to these comments.

General Comments (Non-CFR Specific)

34. Four general comments were received which supported the proposed rules as written. One comment also requested confirmation that operation of large passenger vessels around the islands of Hawaii constituted coastal trade and would not require mandatory development and certification of a safety management system. A U.S. vessel certificated to a limited route of coastal operations within the Hawaiian island chain is not required to meet this part. However, if the vessel involved in this operation holds an international registry and a Certificate of Inspection authorizing international voyages, even though the owner of the vessel limits its operations, this vessel would have to meet all SOLAS requirements and be certificated to the ISM Code.

One comment requested that the safety management system requirements be placed in each part of title 46 of the CFR to correspond to each type of vessel required to meet the ISM Code. The Coast Guard does not agree that this should be done as the agency has actively reduced the number of regulations where possible, including elimination of redundant parallel regulations in the CFR. The limited reference in each part of Title 46 affected by the final rules in 33 CFR part 96 will allow ease of reference and continuity of using the regulations for all vessels affected by these requirements. No change to the final rule has been completed due to these comments.

35. Two general comments supported the use of plain English in the development of these regulations by the Coast Guard. Each described the use of the question and answer format as useful, but both felt that the style did not provide enough detail to really answer the questions posed. One comment stated that the questions did not appear to be answered. The other comment felt that the standards of plain English were not followed adequately.

The Coast Guard's authority for developing these regulations required consistency with the ISM Code. The ISM Code's standards are general in nature to allow flexibility for different types of vessel companies to meet them without restricting their creativity or mandating a specific management style. Other international or U.S. quality standards and management standards are written following the same logic. No change to the final rule has been made due to these comments.

36. Two general comments discussed the need to carefully oversee safety management system development and certification programs for U.S. and foreign vessels. The comments pointed out that Coast Guard personnel should

be specifically trained to oversee these new requirements. We agree.

U.S. Coast Guard marine inspectors and program managers have been trained to meet national auditing standards. Since 1995, approximately 120 Coast Guard marine inspectors completed a course which is specifically based on the auditor standards of ANSI ASQC Q 9001 and the ISM Code. The Coast Guard also reviewed its in-house training programs for marine safety responsibilities and included compliance and enforcement of the ISM Code in each basic marine safety training course. No changes have been made to the final rule due to these comments.

37. One general comment stated that there are numerous organizations worldwide, who may be authorized by an Administration to complete ISM Code audits and certification, whose abilities to act on behalf of an Administration may be questionable. Two other general comments alluded to the same problem, and provided suggestions on how these organizations should be rated for performance and how port state targeting schemes could be modified when a specific organization fails to complete its authorized responsibilities.

The Coast Guard agrees. Coast Guard program managers will monitor and compare compliance with the ISM Code for all flag states, authorized organizations, companies and foreign flagged vessels. Because this information will be monitored centrally by Coast Guard Headquarters program managers, compliance infractions will be tailed and may affect the targeting scheme for specific foreign vessels, flag states, and vessel owners or authorized organizations. This information will enable the Coast Guard to modify its targeting scheme, if necessary, to ensure that vessels with continuous noncompliance issues receive a higher level of oversight and boardings when in U.S. ports.

The Coast Guard will use the information collected to provide IMO and flag states with reports on port state interventions, detentions and denials of U.S. port entries required by the port state reporting requirements of SOLAS. If a specific authorized organization continuously fails to complete its assigned duties, such reports will illustrate these failures to all SOLAS Contracting Parties, who can increase their port state control requirements on vessels certificated by this organization on behalf of any flag state. This will help flag states recognize the need for extended oversight when continuous problems are documented, and promote revocation of authorizations by the flag state when necessary. In the event that these actions do not appropriately address non-compliance, the Coast Guard will continue to heighten its oversight and boardings of vessels certificated by these organizations. This may lead to interventions, detentions and denial of entry into U.S. ports and places. No change has been made to the final rule due to these comments.

38. One general comment recommended that a Master's or crew's unfamiliarity with the company's safety management system and training requirements of a safety management system should be clear grounds to perform a more extensive examination of a foreign flag vessel during a routine boarding by the Coast Guard. The Coast Guard agrees with the comment and developed its port state control boarding procedures to allow for an expanded examination of a foreign vessel's safety management system when this situation is found during a routine Coast Guard boarding. As the policy for Coast Guard actions required during port state examinations of foreign vessels are covered in the NVIC on ISM Code compliance for foreign vessels, the final rule has not been changed due to this comment.

39. Two general comments recommended the Coast Guard require foreign vessels to provide information in advance of their U.S. port arrivals to ensure their compliance with the ISM Code. The Coast Guard agrees with these comments and on December 11, 1997, published an Interim Rule in a separate rulemaking (CGD 97–067) to require this advance notice of arrival requirement (62 FR 65203). No change has been made to this rulemaking due to these comments.

40. One general comment requested the Coast Guard review all current regulations that place the responsibility for the safe operation of a vessel on the vessel's Master, and where appropriate, share some of that responsibility with the designated person. The Coast Guard disagrees. As defined in § 96.120, the designated person does not have a responsibility for operation of the vessel. The designated person's responsibility is to monitor the safety management system of the company and the vessel(s), as directed by the responsible person. If problems arise with the policies and procedures for the safe operations of the vessel which the Master does not believe he or she has the right tools to manage, those problems should be communicated to the vessel's owner. The Master can communicate through the safety management system, or directly to the vessel owner, or through the designated person to the vessel's owner. By documenting these circumstances in the safety management system, a critical review by the vessel management will be performed and new or corrected policies or procedures placed into the safety management system to assist the Master. The Coast Guard has made no change to the final rule due to this comment.

41. Two general comments recommended that the final rule provide a list of administrative requirements or detailed guidance on the issues of revocation of a Document of Compliance certificate or a Safety Management Certificate. The Coast Guard will provide guidance for such actions in the new chapter of Volume II of the Coast Guard Marine Safety Manual on the compliance and enforcement of safety management systems for U.S. vessels. The Coast Guard determined that placing this policy in regulations would limit its ability to consider all necessary circumstances and make decisions on a case-by-case basis.

All Coast Guard actions to enforce safety management system requirements on U.S. vessels and their companies can be appealed to the Coast Guard under 46 CFR 1.03, ''Rights to Appeal.'' This section provides time frames and procedures for use by the maritime industry to effectively question actions taken by the Coast Guard in enforcing revocations on these certificates, as needed. No change has been made to the final rule due to these comments.

42. One comment stated that the proposed regulations do not fully anticipate problems and provide direction necessary to manage important day-to-day operations with regard to the endangered Northern Right Whale. In particular, the comment expressed concern that the ISM Code regulations were too narrowly focused and sought various clarifications regarding the application of the regulations to protected species and their critical habitats. It suggested that the language in proposed § 96.250(g) be amended to specifically include operation plans and instructions with respect to protected species in their critical habitats.

The ISM Code does not define specific operating procedures or practices, but instead provides broad, general performance elements as guidelines to be applied by ship owners and their companies to shoreside operations and to their vessels. Shipping is a varied industry with numerous types of companies operating under a large range of different conditions. The ISM Code guidelines

are based on general principles and objectives to promote the development of sound management and operating practices within the industry as a whole. Its purpose is to require companies to establish operating practices and policies so that company management will be in a position to ensure that their vessels comply with all applicable international and U.S. laws for purposes of safety and environmental protection. It does not seek to define or incorporate detailed regulatory requirements, but instead to establish the management structure that will ensure that requirements applicable to vessels are communicated to shoreside and vessel personnel, and complied with. Thus, the requirements in this regulation are expressed in broad terms so they may have widespread application. As expressed in the comment, the suggestions applicable to protected species are too narrow to be addressed in this rulemaking.

This does not mean that these regulations will not beneficially effect endangered species or their critical habitats. Besides the beneficial effect that company policies and management structures promoting safe, environmentally sound vessel operations will have on the marine environment in general, including protected species, the management structure and policies put in place through the ISM Code will promote compliance with all applicable laws, including environmental efforts. Under these regulations, company management would establish an operational and management structure that would ensure that vessel Masters and crews within their fleets would be provided with the applicable safety and environmental requirements for operations in U.S. waters. Additionally, the system would ensure that necessary training would be conducted. The system would then be audited periodically to determine whether the system is working and compliance is occurring.

An example of how this would work involves the Northern Right Whale. The Coast Guard is working closely with the National Marine Fisheries Service and its charter agency, the National Oceanographic and Atmospheric Administration (NOAA), to develop national programs to assist in protection of the Northern Right Whale by providing mariners operating directions for the whale's critical habitat areas on the east coast of the United States. Part of this effort is the publication of navigation warnings for the Northern Right Whale in Coast Guard Notices to Mariners and in the U.S. Coast Pilot publications covering critical habitat areas of the Northern Right Whale. These warnings include the requirements of 50 CFR parts 217 and 222 that establish Northern Right Whale avoidance measures for vessels and reporting criteria for whale strikes. Coast Guard navigation safety requirements for foreign and U.S. vessels are established in 33 CFR part 164. These regulations include requirements for vessels to have aboard the current edition of the U.S. Coast Pilot for the area in which vessels are operating. In addition, other regulations require vessels to have aboard proper operating radiotelephone equipment that will allow vessels to monitor frequencies over which Notices to Mariners are broadcast. Compliance with the ISM Code requirements in this part means that companies that own and operate vessels will have in place the means to ensure that vessel Master are aware of these requirements, that they comply and that corporate officers are aware of, and correct, instances of noncompliance. For these reasons, no change has been made to the final rule due to these comments.

43. One comment focused on the introduction of injurious exotic species into U.S. coastal and riparian waters through ballast water discharges by vessels engaged on foreign voyages to ports or places in the U.S. The Coast Guard is currently developing new regulations to address vessel discharges of ballast water into U.S. waters. The Coast Guard is also monitoring actions at IMO which involve these vessel operations. No change has been made to the final rule due to this comment.

44. One general comment requested that an interim rule be published by the Coast Guard for review and comment on this rulemaking prior to the final rule being published. We disagree. As written comments on the proposed rulemaking did not point to any significant problems nor any problems that have not been addressed in the final rule, the Coast Guard does not expect that publishing an interim rule would markedly improve the regulations nor assist vessel owners in complying with the ISM Code by its first effective date of July 1, 1998. Therefore, the Coast Guard has completed this rulemaking process by publishing this final rule.

45. Two general comments were made by one commentor on: (1) Mandatory requirements for safety management systems on U.S. domestic vessels; and (2) the benefits that would be reaped by these domestic vessels compliance with these regulations.

The Coast Guard contends that the use of safety management systems by all U.S. commercial vessels would result in significant benefits and we will support the development of such programs. 46 U.S.C. 3202 states that U.S. domestic vessels may voluntarily meet the requirements of that Chapter, but does not provide the Coast Guard with the authority to require such safety management systems on these U.S. domestic vessels. Thus, the final rule has not been changed due to these comments.

46. Editorial changes. 46 CFR §§ 33.40–30 (a) & (b), 71.75–13 (a) & (b), 91.60–30 (a) & (b), 107.415 (a) & (b), 126.480 (a) & (b), and 186.60–30 (a) & (b). In these sections, paragraphs (a) and (b) have been combined to make it clear that only those vessels to which 33 CFR part 96 applies must have the ISM certificates.

33 CFR 96.100. The public law cite was removed and replaced with 46 U.S.C. Chapter 32, which is the authority for this subparts purpose.

33 CFR 96.400(a). In the last sentence of this paragraph, the term ''delegated to'' is replaced with the term ''delegated by''. This will correctly reflect that audits and certification functions are not delegated ''to'' the Coast Guard. They are delegated to the recognized organization ''by'' the Coast Guard.

33 CFR 96.470. In this section, the terms ''of recognized organizations'' is added to clarify which Commandant's list the removal may be from.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 96.130 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in that section.

Regulatory Evaluation

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

The basis for the number of vessels effected by this rulemaking was developed from the Coast Guard's Marine Safety Management System (MSMS) database on vessel inspection, documentation and certification files. From this source it was determined that there are 415 vessels with 163-discreet owners that hold Safety of Life at Sea (SOLAS) certificates and are considered to be subject to the mandatory

application of the ISM Code. There are 186 vessels that must comply with this regulation by July 1, 1998, and 229 vessels that must comply by July 1, 2002.

Costs

Three distinct processes were used to derive the costs to implement and maintain the ISM Code. They include developing a safety management system, certification and audit fees, and training Coast Guard and authorized organization personnel to conduct management system audits.

The following cost estimates are a result of one set of choices made by an organization managing relevant U.S. vessels in a normal and prudent manner, but not having a safety management program that meets the ISM Code. This scenario and maintenance of a safety management system assumes the employment of a separate staff person with fleet-wide responsibility for safety, environmental protection, and general quality control. On-going distribution of updated safety and technical documents is a normal company practice. The operator routinely maintains data-processing and communication capability adequate to handle the ship-to-shore information flow required by the ISM Code. It was assumed that the owner or operator is responsible for more than one vessel.

The start-up costs for initiating a safety management system is calculated at approximately $150K per company and $2K per vessel, with recurring expenses estimated to be $10K per vessel for system maintenance.

To clearly describe the effected population and improve the regulatory analysis, shipping concerns were separated into three categories of large, medium and small sized companies. For all companies, the cost is compiled for a 10-year period (1998–2007 inclusive). For large companies, which is estimated to be 71 of the total 163 companies effected, the start-up cost is approximately $38.5 million. The average cost for these 71 companies per year is estimated to be $3.8 million. For medium companies, the total cost for the 27 companies is approximately $7.8 million. The average cost for these medium companies is estimated to be $780,000 per year. Out of a total of 65 small companies, only 12 companies face these costs, and the total cost is approximately $3.2 million. The average cost per year for these 12 small companies is estimated to be $320,000.

Total Costs

- Small Companies: $3.2 million.
- Medium Companies: $7.8 million.
- Large Companies: $38.5 million.
- Total: $49.5 million (1998–2007 inclusive).
- The average cost per year: $5.0 million.

Benefits

A study was conducted to identify the significant types and circumstances of U.S. vessel accidents potentially preventable due to ISM Code compliance. The data used to support the analysis of ISM Code benefits was drawn from the MSMS Marine Investigation Module (MINMOD) and vessel information files. Marine Casualty Investigation Reports (MCIR's) were included in the study if they involved either currently-registered U.S. vessels, that would be subject to the ISM Code or if a Human Factors Supplement was filed in the case. A Human Factors Supplement contains a standardized ''class'' or ''subclass'' designation of a particular human factor or factors considered by the investigating officer to have contributed to the accident. Only MCIR with problems considered by the Coast Guard to be preventable through ISM Code procedures were retained. There were 214 such cases over the three year period (1993–1995). These benefits needed to be quantified. Five factors were used to estimate the cost of the 214 relevant casualties. The five factors are listed below: (The dollar figures below reflect a 1997 dollar value.)

1. Vessel and property damage: The total dollar damage value per casualty has been estimated to be $10,000.
2. Injuries: The total dollar damage value per injury has been estimated to be $424,174.
3. Deaths: The number of deaths or missing persons shown in the MCIR record multiplied by $2,700,000. This factor is currently recommended by DOT for use in regulatory impact estimation.
4. Vessel Downtime: An average vessel downtime cost of $224,337 was arrived at by averaging all vessel damage evaluations shown in the MICR records other than for vessels evaluated as either seaworthy or as a total loss. This is the same factor that was used in the study completed for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) rulemaking, implementation benefits.
5. Environmental Damage: Any spillage recorded in the MCIR record is converted to 42-gallon barrel terms and multiplied by $15,810. This is the average cost used in the benefit study done for STCW to represent per-barrel costs of natural resource damage, loss of beneficial use of shoreline and cleanup for ''small'' spills.

We identified relevant accidents that occurred between 1993–1995 and developed factors to estimate their cost to society. The following steps were used to estimate the annual reduction in future marine casualty costs that may be expected from ISM Code implementation:

1. The projected costs were divided into three categories depending on the cause of the casualty. The three categories were personnel nature, any primary nature other than pollution, and pollution casualties.
2. Based on the study's findings, a percentage range was created. This range expressed the expectation of future casualties with the implementation of the ISM Code final rule.
3. The STCW rulemaking creates some of the same benefits as implementation of the ISM Code. The average annual cost reduction from the implementation of STCW were taken into account to avoid double counting of benefits.
4. The expected percentage impact of ISM Code implementation was then applied to produce the expected cost reduction.

After all of these procedures were followed an estimated benefit range was determined. The range for the economic benefit of expected avoided costs of all relevant accident types combined was estimated to be $6.9 to $12.8 million per year, dominated by the $6.4 to $12.2 million estimated for reduction in the costs of personnel casualties.

Cost-Benefit

The total average cost for this final rule (1998–2007) has been estimated at $49.5 million. This is approximately $5.0 million per year. The range for the economic benefit of expected avoided costs of all relevant accident types combined was estimated to be $6.9 to $12.8 million per year.

The estimated cost-benefit for this final rule was calculated by dividing the measure's present value cost by the measure's present value benefit. The estimated cost-benefit range for this rule is 0.39 to 0.72. A rule with a cost-benefit factor of less than 1.0 implies that efficient standards have been set by balancing the costs of anticipated abatement against the benefits of expected avoided costs. Therefore, this rulemaking can be deemed as cost effective.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard

considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Our initial evaluation was that this rule would effect approximately 72 small entities, whose U.S. small passenger vessels operate on international voyages. For purposes of the ''small entity'' analysis, the Coast Guard considered the 72 vessels owned by 65 companies as small entities. To ease the burden on small entities 54 of these are allowed to apply for an equivalence to these requirements to significantly reduce their cost to develop and certify their safety management systems, if they opt to do so. No comments or statements were received during the NPRM on the impact of this rulemaking on small entities. No change or amendment to the final rule was completed that would alter the effect already stated in the NPRM on small entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. No written requests were received by the Coast Guard to provided assistance for the development of safety management systems by small entities. One comment stated that the equivalence option provided for small passenger vessels as unnecessary, if the limiting factor is the cost incurred to be certificated by an organization acting on behalf of the U.S. The Coast Guard disagrees.

This final rule offers an option for small entities to develop an equivalent safety management system in concert with the cognizant Coast Guard OCMI. This option will significantly reduce the cost for the safety management system and will allow direct auditing and certification by the Coast Guard. No extra fee will be required for these owners who elect to take advantage of this option.

When developing the small passenger vessel equivalence, the Coast Guard considered cost issues. Cost was not the only reason used by the Coast Guard to determine that small passenger vessel operations could benefit equally by an equivalence to the requirements provided in these regulations. Their historical operational risk was evaluated, the traditional policies that are used to regulate international conventions on these vessels, and the small number of vessels within this type of vessels which would be impacted. The Coast Guard is also required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), to evaluate the impact of new federal regulations and the ability to assist these businesses. Also, what played a factor was verbal comments received from operators of such vessels at the public meetings held at four ports in the October and November 1995 time frame at the initiation of this rulemaking process. The Coast Guard has seen great success with using an equivalence option with these vessel types and agreed that no reduction of safety would be incurred by using this option in the enforcement of these new regulations. No change has been made to the final rule due to this comment.

The Coast Guard is also providing these small entity owners with a job aid on safety management system development which will help them meet these standards and will cut the cost of their having to go to a third party source for support and training. These small passenger vessel owners will be provided with continued support by the local cognizant OCMI to ensure that their vessels have a properly operating safety management system which is certificated prior to the effective date of these requirements.

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Information is collected to show the compliance status of responsible persons and their U.S. vessels to the Coast Guard by recognized organizations authorized by the Coast Guard to act on behalf of the U.S. A responsible person must establish a safety management system and prepare internal audit reports for the responsible person's company and vessel(s) which demonstrate compliance with the ISM Code. Preparation of these reports required a new information collection request submittal to OMB.

Title 46, chapter 32 also requires that a responsible person's company and U.S. vessel(s) possess Document of Compliance certificates and Safety Management Certificates, respectively, as evidence of compliance with the ISM Code. Recognized organizations authorized to act on behalf of the U.S. and the Coast Guard will issue these certificates. To prepare and issue these international management certificates, an amendment to existing information collection request 2115–0056 was submitted to OMB.

Safety management systems will be externally audited and reported on by an authorized organization through a review of the internal audit reports prepared by a company. Since the Coast Guard reviews this information that documents the ISM Code compliance, existing collection request 2115–0626 also requires amendment and was submitted to OMB for approval.

As described above, the Coast Guard submitted new and amended information collection requests pursuant to the estimates described in the NPRM. No comments were received to the NPRM docket regarding these estimates. No change was made to the proposed regulatory text which would require new information collection requests. Also, no change was made to the final rule which would affect those estimates.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section numbers are: 33 CFR 96.250, 96.320, 96.330, 96.340, 96.350, 96.360, and 46 CFR 2.01–25, 31.40–30, 71.75–13, 71.75–20, 91.60–30, 91.60–40, 107.417, 115.925, 126.480, 175.540, 176.925, 176.930,189.60–30, 189.60–40; and the corresponding approval numbers from OMB are OMB Control Number(s), 2115–0056; 2115–0057, and 2115–0626, which expire on August 31, 2000.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

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

Federal Preemption

Historically, the Coast Guard has inspected vessels for their compliance with Federal regulations and international standards to which the United States is a party that address the safety of vessels and protection of the marine environment. These regulations implement the provisions of the International Convention for the Safety of Life at Sea, 1974, (SOLAS) as amended, to which the United States is a party. As a party to this Convention, the United States has agreed to implement its provisions for vessels flying the flag of the United States and to apply these provisions to foreign vessels in accordance with the enforcement regime established within the Convention. In addition, actions by state and local governments that seek to impose different standards than those imposed by these regulations would frustrate the desire of Congress to impose uniform, international standards relating to the implementation of safety management systems for vessels when it enacted 46 U.S.C. Chapter 32. It is the Coast Guard's opinion that the Supremacy Clause of the Constitution would preempt state and local regulations that seek to impose different or higher standards than those established in these regulations.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded during the rulemaking stage that under paragraph 2.B.2.e(34) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Paragraph 2.B.2.e(34)(d) categorically excludes regulations concerning manning, documentation, measurement, inspection and equipping of vessels. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 96

Administrative practice and procedure, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Safety management systems, Vessels.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Safety management systems, Vessels.

46 CFR Part 115

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 126

Marine safety, Offshore supply vessels, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 176

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Safety management systems.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements, Safety management systems.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Chapter I and 46 CFR Chapter I as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

1. Add part 96 to read as follows:

PART 96—RULES FOR THE SAFE OPERATION OF VESSELS AND SAFETY MANAGEMENT SYSTEMS

Subpart A—General

Sec.
96.100 Purpose.
96.110 Who does this subpart apply to?
96.120 Definitions.
96.130 Incorporation by reference.

Subpart B—Company and Vessel Safety Management Systems

96.200 Purpose.
96.210 Who does this subpart apply to?
96.220 What makes up a safety management system?
96.230 What objectives must a safety management system meet?
96.240 What functional requirements must a safety management system meet?
96.250 What documents and reports must a safety management system have?

Subpart C—How Will Safety Management Systems Be Certificated and Enforced?

96.300 Purpose.
96.310 Who does this subpart apply to?
96.320 What is involved to complete a safety management audit and when is it required to be completed?
96.330 Document of Compliance certificate: what is it and when is it needed?
96.340 Safety Management Certificate: what is it and when is it needed?
96.350 Interim Document of Compliance certificate: what is it and when can it be used?
96.360 Interim Safety Management Certificate: what is it and when can it be used?
96.370 What are the requirements for vessels of countries not party to Chapter IX of SOLAS?
96.380 How will the Coast Guard handle compliance and enforcement of these regulations?
96.390 When will the Coast Guard deny entry into a U.S. port?

Subpart D—Authorization of Recognized Organizations To Act on Behalf of the U.S.

96.400 Purpose.
96.410 Who does this subpart apply to?
96.420 What authority may an organization ask for under this regulation?
96.430 How does an organization submit a request to be authorized?
96.440 How will the Coast Guard decide whether to approve an organization's request to be authorized?
96.450 What happens if the Coast Guard disapproves an organization's request to be authorized?
96.460 How will I know what the Coast Guard requires of my organization if my organization receives authorization?
96.470 How does the Coast Guard terminate an organization's authorization?
96.480 What is the status of a certificate if the issuing organization has its authority terminated?
96.490 What further obligations exist for my organization if the Coast Guard terminates its authorization?
96.495 How can I appeal a decision made by an authorized organization?

Authority: 46 U.S.C. 3201 *et. seq.*; 46 U.S.C. 3103; 46 U.S.C. 3316, 33 U.S.C. 1231; 49 CFR 1.45, 49 CFR 1.46.

Subpart A—General

§ 96.100 Purpose.

This subpart implements Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS), 1974,

International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code), as required by 46 U.S.C. Chapter 32.

Note: Chapter IX of SOLAS is available from the International Maritime Organization, Publication Section, 4 Albert Embankment, London, SE1 75R, United Kingdom, Telex 23588. Please include document reference number ''IMO–190E'' in your request.

§ 96.110 Who does this subpart apply to?

This subpart applies to you if—

(a) You are a responsible person who owns a U.S. vessel(s) and must comply with Chapter IX of SOLAS;

(b) You are a responsible person who owns a U.S. vessel(s) that is not required to comply with Chapter IX of SOLAS, but requests application of this subpart;

(c) You are a responsible person who owns a foreign vessel(s) engaged on a foreign voyage, bound for ports or places under the jurisdiction of the U.S., which must comply with Chapter IX of SOLAS; or

(d) You are a recognized organization applying for authorization to act on behalf of the U.S. to conduct safety management audits and issue international convention certificates.

§ 96.120 Definitions.

(a) Unless otherwise stated in this section, the definitions in Chapter IX, Regulation 1 of the International Convention for the Safety of Life at Sea (SOLAS) apply to this part.

(b) As used in this part—

Administration means the Government of the State whose flag the ship is entitled to fly.

Authorized Organization Acting on behalf of the U.S. means an organization that is recognized by the Commandant of the U.S. Coast Guard under the minimum standards of subparts A and B of 46 CFR part 8, and has been authorized under this section to conduct certain actions and certifications on behalf of the United States.

Captain of the Port (COTP) means the U.S. Coast Guard officer as described in 33 CFR 6.01–3, commanding a Captain of the Port zone described in 33 CFR part 3, or that person's authorized representative.

Commandant means the Commandant, U.S. Coast Guard.

Company means the owner of a vessel, or any other organization or person such as the manager or the bareboat charterer of a vessel, who has assumed the responsibility for operation of the vessel from the shipowner and who on assuming responsibility has agreed to take over all the duties and responsibilities imposed by this part or the ISM Code.

Designated person means a person or persons designated in writing by the responsible person who monitors the safety management system of the company and vessel and has:

(1) Direct access to communicate with the highest levels of the company and with all management levels ashore and aboard the company's vessel(s);

(2) Responsibility to monitor the safety and environmental aspects of the operation of each vessel; and

(3) Responsibility to ensure there are adequate support and shore-based resources for vessel(s) operations.

Document of Compliance means a certificate issued to a company or responsible person that complies with the requirements of this part or the ISM Code.

International Safety Management (ISM) Code means the International Management Code for the Safe Operation of Ships and Pollution Prevention, Chapter IX of the Annex to the International Convention for the Safety of Life at Sea (SOLAS), 1974.

Non-conformity means an observed situation where objective evidence indicates the non-fulfillment of a specified requirement.

Major non-conformity means an identifiable deviation which poses a serious threat to personnel or vessel safety or a serious risk to the environment and requires immediate corrective action; in addition, the lack of effective and systematic implementation of a requirement of the ISM Code is also considered a major non-conformity.

Objective Evidence means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified.

Officer In Charge, Marine Inspection (OCMI) means the U.S. Coast Guard officer as described in 46 CFR 1.01–15(b), in charge of an inspection zone described in 33 CFR part 3, or that person's authorized representative.

Recognized organization means an organization which has applied and been recognized by the Commandant of the Coast Guard to meet the minimum standards of 46 CFR part 8, subparts A and B.

Responsible person means—

(1) The owner of a vessel to whom this part applies, or

(2) Any other person that—

(i) has assumed the responsibility from the owner for operation of the vessel to which this part applies; and

(ii) agreed to assume, with respect to the vessel, responsibility for complying with all the requirements of this part.

(3) A responsible person may be a company, firm, corporation, association, partnership or individual.

Safety management audit means a systematic and independent examination to determine whether the safety management system activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.

Safety Management Certificate means a document issued to a vessel which signifies that the responsible person or its company, and the vessel's shipboard management operate in accordance with the approved safety management system.

Safety Management System means a structured and documented system enabling Company and vessel personnel to effectively implement the responsible person's safety and environmental protection policies.

SOLAS means the International Convention for the Safety of Life at Sea, 1974, as amended.

Vessel engaged on a foreign voyage means a vessel to which this part applies that is—

(1) Arriving at a place under the jurisdiction of the United States from a place in a foreign country;

(2) Making a voyage between places outside the United States; or

(3) Departing from a place under the jurisdiction of the United States for a place in a foreign country.

§ 96.130 Incorporation by reference.

(a) The Director of the Federal Register approves certain material that is incorporated by reference into this subpart under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and the material must be available to the public. You may inspect all material at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Office of Design and Engineering Standards (G–MSE), 2100 Second St., SW., Washington, DC 20593–0001, and receive it from the source listed in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subpart and the sections affected are as follows:

American National Standards Institute (ANSI)—11 West 42nd St., New York, NY 10036.

ANSI/ASQC Q9001–1994, Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994—96.430

International Maritime Organization IMO—4 Albert Embankment, London, SE1 7SR, United Kingdom.

Resolution A.741(18), International Management Code for the Safe Operation of Ships and for Pollution Prevention, November 4, 1993—96.220, 96.370

Resolution A.788 (19), Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations, November 23, 1995—96.320, 96.440

Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, November 4, 1993—96.440

Subpart B—Company and Vessel Safety Management Systems

§ 96.200 Purpose.

This subpart establishes the minimum standards that the safety management system of a company and its U.S. flag vessel(s) must meet for certification to comply with the requirements of 46 U.S.C. 3201–3205 and Chapter IX of SOLAS, 1974. It also permits companies with U.S. flag vessels that are not required to comply with this part to voluntarily develop safety management systems which can be certificated to standards consistent with Chapter IX of SOLAS.

§ 96.210 Who does this subpart apply to?

(a) This subpart applies—

(1) To a responsible person who owns or operates a U.S. vessel(s) engaged on a foreign voyage which meet the conditions of paragraph (a)(2) of this section;

(2) To all U.S. vessels engaged on a foreign voyage that are—

(i) A vessel transporting more than 12 passengers; or

(ii) A tanker, a bulk freight vessel, a freight vessel or a self-propelled mobile offshore drilling unit (MODU) of 500 gross tons or more; and

(3) To all foreign vessels engaged on a foreign voyage, bound for ports or places under the jurisdiction of the U.S., and subject to Chapter IX of SOLAS.

(b) This subpart does not apply to—

(1) A barge;

(2) A recreational vessel not engaged in commercial service;

(3) A fishing vessel;

(4) A vessel operating only on the Great Lakes or its tributary and connecting waters; or

(5) A public vessel, which includes a U.S. vessel of the National Defense Reserve Fleet owned by the U.S. Maritime Administration and operated in non-commercial service.

(c) Any responsible person and their company who owns and operates a U.S. flag vessel(s) which does not meet the conditions of paragraph (a), may voluntarily meet the standards of this part and Chapter IX of SOLAS and have their safety management systems certificated.

(d) The compliance date for the requirements of this part are—

(1) On or after July 1, 1998, for—

(i) Vessels transporting more than 12 passengers engaged on a foreign voyage; or

(ii) Tankers, bulk freight vessels, or high speed freight vessels of at least 500 gross tons or more, engaged on a foreign voyage.

(2) On or after July 1, 2002, for other freight vessels and self-propelled mobile offshore drilling units (MODUs) of at least 500 gross tons or more, engaged on a foreign voyage.

§ 96.220 What makes up a safety management system?

(a) The safety management system must document the responsible person's—

(1) Safety and pollution prevention policy;

(2) Functional safety and operational requirements;

(3) Recordkeeping responsibilities; and

(4) Reporting responsibilities.

(b) A safety management system must also be consistent with the functional standards and performance elements of IMO Resolution A.741(18).

§ 96.230 What objectives must a safety management system meet?

The safety management system must:

(a) Provide for safe practices in vessel operation and a safe work environment onboard the type of vessel the system is developed for;

(b) Establish and implement safeguards against all identified risks;

(c) Establish and implement actions to continuously improve safety management skills of personnel ashore and aboard vessels, including preparation for emergencies related to both safety and environmental protection; and

(d) Ensure compliance with mandatory rules and regulations, taking into account relevant national and international regulations, standards, codes and maritime industry guidelines, when developing procedures and policies for the safety management system.

§ 96.240 What functional requirements must a safety management system meet?

The functional requirements of a safety management system must include—

(a) A written statement from the responsible person stating the company's safety and environmental protection policy;

(b) Instructions and procedures to provide direction for the safe operation of the vessel and protection of the environment in compliance with the applicable U.S. Code of Federal Regulations, and international conventions to which the U.S. is a party (SOLAS, MARPOL, etc.);

(c) Documents showing the levels of authority and lines of communication between shoreside and shipboard personnel;

(d) Procedures for reporting accidents, near accidents, and non-conformities with provisions of the company's and vessel's safety management system, and the ISM Code;

(e) Procedures to prepare for and respond to emergency situations by shoreside and shipboard personnel;

(f) Procedures for internal audits on the operation of the company and vessel(s) safety management system; and

(g) Procedures and processes for management review of company internal audit reports and correction of non-conformities that are reported by these or other reports.

§ 96.250 What documents and reports must a safety management system have?

The documents and reports required for a safety management system under § 96.330 or § 96.340 must include the written documents and reports itemized in Table 96.250. These documents and reports must be available to the company's shore-based and vessel(s)-based personnel:

TABLE 96.250.—SAFETY MANAGEMENT SYSTEM DOCUMENTS AND REPORTS

Type of documents and reports	Specific requirements
(a) Safety and environmental policy statements	(1) Meet the objectives of § 96.230; and (2) Are carried out and kept current at all levels of the company;
(b) Company responsibilities and authority statements	(1) The owners name and details of responsibility for operation of the company and vessel(s); (2) Name of the person responsible for operation of the company and vessel(s), if not the owner; (3) Responsibility, authority and interrelations of all personnel who manage, perform, and verify work relating to and affecting the safety and pollution prevention operations of the company and vessel(s); and (4) A statement describing the company's responsibility to ensure adequate resources and shore-based support are provided to enable the designated person or persons to carry out the responsibilities of this subpart.
(c) Designation in writing of a person or persons to monitor the safety management system for the company and vessel(s).	(1) Have direct access to communicate with the highest levels of the company and with all management levels ashore and aboard the company's vessel(s); (2) Have the written responsibility to monitor the safety and environmental aspects of the operation of each vessel; and (3) Have the written responsibility to ensure there are adequate support and shore-based resources for vessel(s) operations.
(d) Written statements that define the Master's responsibilities and authorities.	(1) Carry out the company's safety and environmental policies; (2) Motivate the vessel's crew to observe the safety management system policies; (3) Issue orders and instructions in a clear and simple manner; (4) Make sure that specific requirements are carried out by the vessel's crew and shore-based resources; and (5) Review the safety management system and report non-conformities to shore-based management.
(e) Written statements that the Master has overriding responsibility and authority to make vessel decisions.	(1) Ability to make decisions about safety and environmental pollution; and (2) Ability to request the company's help when necessary.
(f) Personnel procedures and resources which are available ashore and aboard ship..	(1) Masters of vessels are properly qualified for command; (2) Masters of vessels know the company's safety management system; (3) Owners or companies provide the necessary support so that the Master's duties can be safely performed; (4) Each vessel is properly crewed with qualified, certificated and medically fit seafarers complying with national and international requirements; (5) New personnel and personnel transferred to new assignments involving safety and protection of the environment are properly introduced to their duties; (6) Personnel involved with the company's safety management system have an adequate understanding of the relevant rules, regulations, codes and guidelines; (7) Needed training is identified to support the safety management system and ensure that the training is provided for all personnel concerned; (8) Communication of relevant procedures for the vessel's personnel involved with the safety management system is in the language(s) understood by them; and (9) Personnel are able to communicate effectively when carrying out their duties as related to the safety management system.
(g) Vessel safety and pollution prevention operation plans and instructions for key shipboard operations..	(1) Define tasks; and (2) Assign qualified personnel to specific tasks.
(h) Emergency preparedness procedures.	(1) Identify, describe and direct response to potential emergency shipboard situations; (2) Set up programs for drills and exercises to prepare for emergency actions; and (3) Make sure that the company's organization can respond at anytime, to hazards, accidents and emergency situations involving their vessel(s).
(i) Reporting procedures on required actions.	(1) Report non-conformities of the safety management system; (2) Report accidents; (3) Report hazardous situations to the owner or company; and (4) Make sure reported items are investigated and analyzed with the objective of improving safety and pollution prevention.

TABLE 96.250.—SAFETY MANAGEMENT SYSTEM DOCUMENTS AND REPORTS—Continued

Type of documents and reports	Specific requirements
(j) Vessel maintenance procedures. (These procedures verify that a company's vessel(s) is maintained in conformity with the provisions of relevant rules and regulations, with any additional requirements which may be established by the company.).	(1) Inspect vessel's equipment, hull, and machinery at appropriate intervals; (2) Report any non-conformity or deficiency with its possible cause, if known; (3) Take appropriate corrective actions; (4) Keep records of these activities; (5) Identify specific equipment and technical systems that may result in a hazardous situation if a sudden operational failure occurs; (6) Identify measures that promote the reliability of the equipment and technical systems identified in paragraph (j)(5), and regularly test standby arrangements and equipment or technical systems not in continuous use; and (7) Include the inspections required by this section into the vessel's operational maintenance routine.
(k) Safety management system document and data maintenance	(1) Procedures which establish and maintain control of all documents and data relevant to the safety management system. (2) Documents are available at all relevant locations, i.e., each vessel carries on board all documents relevant to that vessels operation; (3) Changes to documents are reviewed and approved by authorized personnel; and (4) Outdated documents are promptly removed.
(l) Safety management system internal audits which verify the safety and pollution prevention activities.	(1) Periodic evaluation of the safety management system's efficiency and review of the system in accordance with the established procedures of the company, when needed; (2) Types and frequency of internal audits, when they are required, how they are reported, and possible corrective actions, if necessary; (3) Determining factors for the selection of personnel, independent of the area being audited, to complete internal company and vessel audits; and (4) Communication and reporting of internal audit findings for critical management review and to ensure management personnel of the area audited take timely and corrective action on non-conformities or deficiencies found.

Note: The documents and reports required by this part are for the purpose of promoting safety of life and property at sea, as well as protection of the environment. The documents and reports are intended to ensure the communication and understanding of company and vessel safety management systems, which will allow a measure of the systems effectiveness and its responsible person to continuously improve the system and safety the system provides.

Subpart C—How Will Safety Management Systems Be Certificated and Enforced?

§ 96.300 Purpose.

This subpart establishes the standards for the responsible person of a company and its vessel(s) to obtain the required and voluntary, national and international certification for the company's and vessel's safety management system.

§ 96.310 Who does this subpart apply to?

This subpart applies:

(a) If you are a responsible person who owns a vessel(s) registered in the U.S. and engaged on a foreign voyage(s), or holds certificates or endorsement of such voyages;

(b) If you are a responsible person who owns a vessel(s) registered in the U.S. and volunteer to meet the standards of this part and Chapter IX of SOLAS;

(c) To all foreign vessels engaged on a foreign voyage, bound for ports or places under the jurisdiction of the U.S., and subject to Chapter IX of SOLAS; or

(d) If you are a recognized organization authorized by the U.S. to complete safety management audits and certification required by this part.

§ 96.320 What is involved to complete a safety management audit and when is it required to be completed?

(a) A safety management audit is any of the following:

(1) An initial audit which is carried out before a Document of Compliance certificate or a Safety Management Certificate is issued;

(2) A renewal audit which is carried out before the renewal of a Document of Compliance certificate or a Safety Management Certificate;

(3) Periodic audits including—

(i) An annual verification audit, as described in § 96.330(f) of this part, and

(ii) An intermediate verification audit, as described in § 96.340(e)(2) of this part.

(b) A satisfactory audit means that the auditor(s) agrees that the requirements of this part are met, based on review and verification of the procedures and documents that make up the safety management system.

(c) Actions required during safety management audits for a company and their U.S. vessel(s) are—

(1) Review and verify the procedures and documents that make up a safety management system, as defined in subpart B of this part.

(2) Make sure the audit complies with this subpart and is consistent with IMO Resolution A.788(19), Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations.

(3) Make sure the audit is carried out by a team of Coast Guard auditors or auditors assigned by a recognized organization authorized to complete such actions by subpart D of this part.

(d) Safety management audits for a company and their U.S. vessel(s) are required—

(1) Before issuing or renewing a Document of Compliance certificate, and to keep a Document of Compliance certificate valid, as described in §§ 96.330 and 96.340 of this part.

(2) Before issuing or renewing a Safety Management Certificate, and to maintain the validity of a Safety

Management Certificate, as described in § 96.340 of this part.

However, any safety management audit for the purpose of verifying a vessel's safety management system will not be scheduled or conducted for a company's U.S. vessel unless the company first has undergone a safety management audit of the company's safety management system, and has received its Document of Compliance certificate.

(e) Requests for all safety management audits for a company and its U.S. vessel(s) must be communicated—

(1) By a responsible person directly to a recognized organization authorized by the U.S.

(2) By a responsible person within the time limits for an annual verification audit, described in § 96.330(f) of this part, and for an intermediate verification audit, described in § 96.340(e)(2) of this part. If he or she does not make a request for a safety management annual or verification audit for a valid Document of Compliance certificate issued to a company or a valid Safety Management Certificate issued to a vessel, this is cause for the Coast Guard to revoke the certificate as described in §§ 96.330 and 96.340 of this part.

(f) If a non-conformity with a safety management system is found during an audit, it must be reported in writing by the auditor:

(1) For a company's safety management system audit, to the company's owner; and

(2) For a vessel's safety management system audit, to the company's owner and vessel's Master.

§ 96.330 Document of Compliance certificate: what is it and when is it needed?

(a) You must hold a valid Document of Compliance certificate if you are the responsible person who, or company which, owns a U.S. vessel engaged on foreign voyages, carrying more than 12 passengers, or is a tanker, bulk freight vessel, freight vessel, or a self-propelled mobile offshore drilling unit of 500 gross tons or more.

(b) You may voluntarily hold a valid Document of Compliance certificate, if you are a responsible person who, or a company which, owns a U.S. vessel not included in paragraph (a) of this section.

(c) You will be issued a Document of Compliance certificate only after you complete a satisfactory safety management audit as described in § 96.320 of this part.

(d) All U.S. and foreign vessels that carry more than 12 passengers or a tanker, bulk freight vessel, freight vessel, or a self-propelled mobile offshore drilling unit of 500 gross tons or more, must carry a valid copy of the company's Document of Compliance certificate onboard when on a foreign voyage.

(e) A valid Document of Compliance certificate covers the type of vessel(s) on which a company's safety management system initial safety management audit was based. The validity of the Document of Compliance certificate may be extended to cover additional types of vessels after a satisfactory safety management audit is completed on the company's safety management system which includes those additional vessel types.

(f) A Document of Compliance certificate is valid for 60 months. The company's safety management system must be verified annually by the Coast Guard or by an authorized organization acting on behalf of the U.S. through a safety management verification audit, within three months before or after the certificate's anniversary date.

(g) Only the Coast Guard may revoke a Document of Compliance certificate from a company which owns a U.S. vessel. The Document of Compliance certificate may be revoked if—

(1) The annual safety management audit and system verification required by paragraph (f) of this section is not completed by the responsible person; or

(2) Major non-conformities are found in the company's safety management system during a safety management audit or other related survey or inspection being completed by the Coast Guard or the recognized organization chosen by the company or responsible person.

(3) The Coast Guard or an authorized organization acting on its behalf is denied, or restricted access to, any vessel, record or personnel of the company, at any time necessary to evaluate the safety management system.

(h) When a company's valid Document of Compliance certificate is revoked by the Coast Guard, a satisfactory safety management audit must be completed before a new Document of Compliance certificate for the company's safety management system can be reissued.

§ 96.340 Safety Management Certificate: what is it and when is it needed?

(a) Your U.S. vessel engaged on a foreign voyage must hold a valid Safety Management Certificate if it carries more than 12 passengers, or if it is a tanker, bulk freight vessel, freight vessel, or a self-propelled mobile offshore drilling unit of 500 gross tons or more.

(b) Your U.S. vessel may voluntarily hold a valid Safety Management Certificate even if your vessel is not required to by paragraph (a) of this section.

(c) Your U.S. vessel may only be issued a Safety Management Certificate or have it renewed when your company holds a valid Document of Compliance certificate issued under § 96.330 of this part and the vessel has completed a satisfactory safety management audit of the vessel's safety management system set out in § 96.320 of this part.

(d) A copy of your company's valid Document of Compliance certificate must be on board all U.S. and foreign vessels which carry more than 12 passengers, and must be onboard a tanker, bulk freight vessel, freight vessel, or a self-propelled mobile offshore drilling unit of 500 gross tons or more, when engaged on foreign voyages or within U.S. waters.

(e) A Safety Management Certificate is valid for 60 months. The validity of the Safety Management Certificate is based on—

(1) A satisfactory initial safety management audit;

(2) A satisfactory intermediate verification audit requested by the vessel's responsible person, completed between the 24th and 36th month of the certificate's period of validity; and

(3) A vessel's company holding a valid Document of Compliance certificate. When a company's Document of Compliance certificate expires or is revoked, the Safety Management Certificate for the company-owned vessel(s) is invalid.

(f) Renewal of a Safety Management Certificate requires the completion of a satisfactory safety management system audit which meets all of the requirements of subpart B in this part. A renewal of a Safety Management Certificate cannot be started unless the company which owns the vessel holds a valid Document of Compliance certificate.

(g) Only the Coast Guard may revoke a Safety Management Certificate from a U.S. vessel. The Safety Management Certificate will be revoked if—

(1) The vessel's responsible person has not completed an intermediate safety management audit required by paragraph (e)(2) of this section; or

(2) Major non-conformities are found in the vessel's safety management system during a safety management audit or other related survey or inspection being completed by the Coast Guard or the recognized organization chosen by the vessel's responsible person.

§ 96.350 Interim Document of Compliance certificate: what is it and when can it be used?

(a) An Interim Document of Compliance certificate may be issued to help set up a company's safety management system when—

(1) A company is newly set up or in transition from an existing company into a new company; or

(2) A new type of vessel is added to an existing safety management system and Document of Compliance certificate for a company.

(b) A responsible person for a company operating a U.S. vessel(s) that meets the requirements of paragraph (a) of this section, may send a request to a recognized organization authorized to act on behalf of the U.S. to receive an Interim Document of Compliance certificate that is valid for a period up to 12 months. To be issued the Interim Document of Compliance certificate the vessel's company must—

(1) Demonstrate to an auditor that the company has a safety management system that meets § 96.230 of this part; and

(2) Provide a plan for full implementation of a safety management system within the period that the Interim Document of Compliance certificate is valid.

§ 96.360 Interim Safety Management Certificate: what is it and when can it be used?

(a) A responsible person may apply for an Interim Safety Management Certificate when—

(1) A responsible person takes delivery of a new U.S. vessel; or

(2) Takes responsibility for the management of a U.S. vessel which is new to the responsible person or their company.

(b) An Interim Safety Management Certificate is valid for 6 months. It may be issued to a U.S. vessel which meets the conditions of paragraph (a) of this section, when—

(1) The company's valid Document of Compliance certificate or Interim Document of Compliance certificate applies to that vessel type;

(2) The company's safety management system for the vessel includes the key elements of a safety management system, set out in § 96.220, applicable to this new type of vessel;

(3) The company's safety management system has been assessed during the safety management audit to issue the Document of Compliance certificate or demonstrated for the issuance of the Interim Document of Compliance certificate;

(4) The Master and senior officers of the vessel are familiar with the safety management system and the planned set up arrangements;

(5) Written documented instructions have been extracted from the safety management system and given to the vessel prior to sailing;

(6) The company plans an internal audit of the vessel within three months; and

(7) The relevant information from the safety management system is written in English, and in any other language understood by the vessel's personnel.

§ 96.370 What are the requirements for vessels of countries not party to Chapter IX of SOLAS?

(a) Each foreign vessel which carries more than 12 passengers, or is a tanker, bulk freight vessel, freight vessel, or self-propelled mobile offshore drilling unit of 500 gross tons or more, operated in U.S. waters, under the authority of a country not a party to Chapter IX of SOLAS must—

(1) Have on board valid documentation showing that the vessel's company has a safety management system which was audited and assessed, consistent with the International Safety Management Code of IMO Resolution A.741(18);

(2) Have on board valid documentation from a vessel's Flag Administration showing that the vessel's safety management system was audited and assessed to be consistent with the International Safety Management Code of IMO Resolution A.741(18); or

(3) Show that evidence of compliance was issued by either a government that is party to SOLAS or an organization recognized to act on behalf of the vessel's Flag Administration.

(b) Evidence of compliance must contain all of the information in, and have substantially the same format as a—

(1) Document of Compliance certificate; and

(2) Safety Management Certificate.

(c) Failure to comply with this section will subject the vessel to the compliance and enforcement procedures of § 96.380 of this part.

§ 96.380 How will the Coast Guard handle compliance and enforcement of these regulations?

(a) While operating in waters under the jurisdiction of the United States, the Coast Guard may board a vessel to determine that—

(1) Valid copies of the company's Document of Compliance certificate and Safety Management Certificate are on board, or evidence of the same for vessels from countries not party to Chapter IX of SOLAS; and

(2) The vessel's crew or shore-based personnel are following the procedures and policies of the safety management system while operating the vessel or transferring cargoes.

(b) A foreign vessel that does not comply with these regulations, or one on which the vessel's condition or use of its safety management system do not substantially agree with the particulars of the Document of Compliance certificate, Safety Management Certificate or other required evidence of compliance, may be detained by order of the COTP or OCMI. This may occur at the port or terminal where the violation is found until, in the opinion of the detaining authority, the vessel can go to sea without presenting an unreasonable threat of harm to the port, the marine environment, the vessel or its crew. The detention order may allow the vessel to go to another area of the port, if needed, rather than stay at the place where the violation was found.

(c) If any vessel that must comply with this part or with the ISM Code does not have a Safety Management Certificate and a copy of its company's Document of Compliance certificate on board, a vessel owner, charterer, managing operator, agent, Master, or any other individual in charge of the vessel that is subject to this part, may be liable for a civil penalty under 46 U.S.C. 3318. For foreign vessels, the Coast Guard may request the Secretary of the Treasury to withhold or revoke the clearance required by 46 U.S.C. App. 91. The Coast Guard may ask the Secretary to permit the vessel's departure after the bond or other surety is filed.

§ 96.390 When will the Coast Guard deny entry into a U.S. port?

(a) Except for a foreign vessel entering U.S. waters under force majeure, no vessel shall enter any port or terminal of the U.S. without a safety management system that has been properly certificated to this subpart or to the requirements of Chapter IX of SOLAS if—

(1) It is engaged on a foreign voyage; and

(2) It is carrying more than 12 passengers, or a tanker, bulk freight vessel, freight vessel, or self-propelled mobile offshore drilling unit of 500 gross tons or more.

(b) The cognizant COTP will deny entry of a vessel into a port or terminal under the authority of 46 U.S.C. 3204(c), to any vessel that does not meet the requirements of paragraph (a) of this section.

Subpart D—Authorization of Recognized Organizations To Act on Behalf of the U.S.

§ 96.400 Purpose.

(a) This subpart establishes criteria and procedures for organizations recognized under 46 CFR part 8, subparts A and B, to be authorized by the Coast Guard to act on behalf of the U.S. The authorization is necessary in order for a recognized organization to perform safety management audits and certification functions delegated by the Coast Guard as described in this part.

(b) To receive an up-to-date list of recognized organizations authorized to act under this subpart, send a self-addressed, stamped envelope and written request to the Commandant (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001.

§ 96.410 Who does this regulation apply to?

This subpart applies to all organizations recognized by the U.S. under 46 CFR part 8, subpart A and B, who wish to seek authorization to conduct safety management audits and issue relevant international safety certificates under the provisions of the ISM Code and voluntary certificates on behalf of the U.S.

§ 96.420 What authority may an organization ask for under this regulation?

(a) An organization may request authorization to conduct safety management audits and to issue the following certificates:

(1) Safety Management Certificate;

(2) Document of Compliance certificate;

(3) Interim Safety Management Certificate; and

(4) Interim Document of Compliance certificate.

(b) [Reserved]

§ 96.430 How does an organization submit a request to be authorized?

(a) A recognized organization must send a written request for authorization to the Commandant (G–MSE), Office of Design and Engineering Standards, 2100 Second Street SW, Washington, DC 20593–0001. The request must include the following:

(1) A statement describing what type of authorization the organization seeks;

(2) Documents showing that—

(i) The organization has an internal quality system with written policies, procedures and processes that meet the requirements in § 96.440 of this part for safety management auditing and certification; or

(ii) The organization has an internal quality system based on ANSI/ASQC C9001 for safety management auditing and certification; or

(iii) The organization has an equivalent internal quality standard system recognized by the Coast Guard to complete safety management audits and certification.

(3) A list of the organization's exclusive auditors qualified to complete safety management audits and their operational area; and

(4) A written statement that the procedures and records of the recognized organization regarding its actions involving safety management system audits and certification are available for review annually and at any time deemed necessary by the Coast Guard.

(b) If the organization is a foreign classification society that has been recognized under 46 CFR part 8, subparts A and B, and wishes to apply for authorization under this part, it must demonstrate the reciprocity required by 46 U.S.C. 3316 for ISM Code certification. The organization must provide, with its request for authorization an affidavit from the government of the country in which the classification society is headquartered. This affidavit must provide a list of authorized delegations by the flag state of the administration of the foreign classification society's country to the American Bureau of Shipping, and indicate any conditions related to the delegated authority. If this affidavit is not received with a request for authorization from a foreign classification society, the request for authorization will be disapproved and returned by the Coast Guard.

(c) Upon the satisfactory completion of the Coast Guard's evaluation of a request for authorization, the organization will be visited for an evaluation as described in § 96.440(b) of this part.

§ 96.440 How will the Coast Guard decide whether to approve an organization's request to be authorized?

(a) First, the Coast Guard will evaluate the organization's request for authorization and supporting written materials, looking for evidence of the following—

(1) The organization's clear assignment of management duties;

(2) Ethical standards for managers and auditors;

(3) Procedures for auditor training, qualification, certification, and requalification that are consistent with recognized industry standards;

(4) Procedures for auditing safety management systems that are consistent with recognized industry standards and IMO Resolution A.788(19);

(5) Acceptable standards for internal auditing and management review;

(6) Record-keeping standards for safety management auditing and certification;

(7) Methods for reporting non-conformities and recording completion of remedial actions;

(8) Methods for certifying safety management systems;

(9) Methods for periodic and intermediate audits of safety management systems;

(10) Methods for renewal audits of safety management systems;

(11) Methods for handling appeals; and

(12) Overall procedures consistent with IMO Resolution A.739(18), ''Guidelines for the Authorization of Organizations Acting on Behalf of the Administration.''

(b) After a favorable evaluation of the organization's written request, the Coast Guard will arrange to visit the organization's corporate offices and port offices for an on-site evaluation of operations.

(c) When a request is approved, the recognized organization and the Coast Guard will enter into a written agreement. This agreement will define the scope, terms, conditions and requirements of the authorization. Conditions of this agreement are found in § 96.460 of this part.

§ 96.450 What happens if the Coast Guard disapproves an organization's request to be authorized?

(a) The Coast Guard will write to the organization explaining why it did not meet the criteria for authorization.

(b) The organization may then correct the deficiencies and reapply.

§ 96.460 How will I know what the Coast Guard requires of my organization if my organization receives authorization?

(a) Your organization will enter into a written agreement with the Coast Guard. This written agreement will specify—

(1) How long the authorization is valid;

(2) Which duties and responsibilities the organization may perform, and which certificates it may issue on behalf of the U.S.;

(3) Reports and information the organization must send to the Commandant (G–MOC);

(4) Actions the organization must take to renew the agreement when it expires; and

(5) Actions the organization must take if the Coast Guard should revoke its authorization or recognition under 46 CFR part 8.

(b) [Reserved]

§ 96.470 How does the Coast Guard terminate an organization's authorization?

At least every 12 months, the Coast Guard evaluates organizations authorized under this subpart. If an organization fails to maintain acceptable standards, the Coast Guard may terminate that organization's authorization, remove the organization from the Commandant's list of recognized organizations, and further evaluate the organization's recognition under 46 CFR part 8.

§ 96.480 What is the status of a certificate if the issuing organization has its authority terminated?

Any certificate issued by an organization authorized by the Coast Guard whose authorization is later terminated remains valid until—

(a) Its original expiration date,

(b) The date of the next periodic audit required to maintain the certificate's validity, or

(c) Whichever of paragraphs (a) or (b) occurs first.

§ 96.490 What further obligations exist for an organization if the Coast Guard terminates its authorization?

The written agreement by which an organization receives authorization from the Coast Guard places it under certain obligations if the Coast Guard revokes that authorization. The organization agrees to send written notice of its termination to all responsible persons, companies and vessels that have received certificates from the organization. In that notice, the organization must include—

(a) A written statement explaining why the organization's authorization was terminated by the Coast Guard;

(b) An explanation of the status of issued certificates;

(c) A current list of organizations authorized by the Coast Guard to conduct safety management audits; and

(d) A statement of what the companies and vessels must do to have their safety management systems transferred to another organization authorized to act on behalf of the U.S.

§ 96.495 How can I appeal a decision made by an authorized organization?

(a) A responsible person may appeal a decision made by an authorized organization by mailing or delivering to the organization a written request for reconsideration. Within 30 days of receiving your request, the authorized organization must rule on it and send you a written response. They must also send a copy of their response to the Commandant (G–MOC).

(b) If you are not satisfied with the organization's decision, you may appeal directly to the Commandant (G–MOC). You must make your appeal in writing, including any documentation and evidence you wish to be considered. You may ask the Commandant (G–MOC) to stay the effect of the appealed decision while it is under review.

(c) The Commandant (G–MOC) will make a decision on your appeal and send you a response in writing. That decision will be the final Coast Guard action on your request.

TITLE 46—SHIPPING

PART 2—VESSEL INSPECTIONS

2. Revise the authority citation for part 2 to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3103, 3205, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat 1120 (see 46 U.S.C. App. note prec.1).

3. In § 2.01–25, add paragraph (a)(1)(ix) and revise paragraph (a)(2) to read as follows:

§ 2.01–25 International Convention for Safety of Life at Sea, 1974.

(a) * * *

(1) * * *

(ix) Safety Management Certificate.

(2) The U.S. Coast Guard will issue through the Officer In Charge, Marine Inspection, the following certificates after performing an inspection or safety management audit of the vessel's systems and determining the vessel meets the applicable requirements:

(i) Passenger Ship Safety Certificate.

(ii) Cargo Ship Safety Construction Certificate, except when issued to cargo ships by a Coast Guard recognized classification society at the option of the owner or agent.

(iii) Cargo Ships Safety Equipment Certificate.

(iv) Exemption Certificate.

(v) Nuclear Passenger Ship Safety Certificate.

(vi) Nuclear Cargo Ship Safety Certificate.

(vii) Safety Management Certificate, except when issued by a recognized organization authorized by the Coast Guard.

* * * * *

PART 31—INSPECTION AND CERTIFICATION

4. Revise the authority citation for part 31 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3703; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46. Section 31.10–21 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

5. Add § 31.40–30 to read as follows:

§ 31.40–30 Safety Management Certificate—T/ALL.

All tankships to which 33 CFR part 96 applies on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

6. In § 31.40–40, revise paragraph (b) to read as follows:

§ 31.40–40 Duration of Convention certificates—T/ALL.

* * * * *

(b) A Cargo Ship Safety Construction Certificate and a Safety Management Certificate shall be issued for a period of not more than 60 months.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

7. Revise the authority citation for part 71 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306; E.O. 12234, 45 FR 58801; 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

8. Add § 71.75–13 to read as follows:

§ 71.75–13 Safety Management Certificate.

All vessels to which 33 CFR part 96 applies on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

9. In § 71.75–20, revise paragraph (a) to read as follows:

§ 71.75–20 Duration of certificates.

(a) The certificates are issued for a period of not more than 12 months, with exception to a Safety Management Certificate which is issued for a period of not more than 60 months.

* * * * *

PART 91—INSPECTION AND CERTIFICATION

10. Revise the authority citation for part 91 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

11. Add § 91.60–30 to read as follows:

§ 91.60–30 Safety Management Certificate.

All vessels to which 33 CFR part 96 applies on an international voyage must

have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

12. In § 91.60–40, revise paragraph (b) to read as follows:

§ 91.60–40 Duration of certificates.

* * * * *

(b) A Cargo Ship Safety Construction Certificate and a Safety Management Certificate are issued for a period of not more than 60 months.

* * * * *

PART 107—INSPECTION AND CERTIFICATION

13. Revise the authority citation for part 107 to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3205, 3306, 5115; 49 CFR 1.45, 1.46; § 107.05 also issued under the authority of 44 U.S.C. 3507.

14. Add § 107.415 to read as follows:

§ 107.415 Safety Management Certificate.

(a) All self-propelled mobile offshore drilling units of 500 gross tons or over to which 33 CFR part 96 applies, on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

(b) A Safety Management Certificate is issued for a period of not more than 60 months.

PART 115—INSPECTION AND CERTIFICATION

15. Revise the authority citation for part 115 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

16. Add § 115.925 to read as follows:

§ 115.925 Safety Management Certificate.

(a) All vessels that carry more than 12 passengers on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

(b) All such vessels must meet the applicable requirements of 33 CFR part 96.

(c) A Safety Management Certificate is issued for a period of not more than 60 months.

PART 126—INSPECTION AND CERTIFICATION

17. Revise the authority citation for part 126 to read as follows:

Authority: 46 U.S.C. 3205, 3306; 33 U.S.C. 1321(j); E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

18. Add § 126.480 to read as follows:

§ 126.480 Safety Management Certificate.

(a) All offshore supply vessels of 500 gross tons or over to which 33 CFR part 96 applies, on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

(b) A Safety Management Certificate is issued for a period of not more than 60 months.

PART 175—GENERAL PROVISIONS

19. Revise the authority citation for part 175 to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; 175.900 also issued under authority of 44 U.S.C. 3507.

20. In § 175.540, add paragraph (d) to read as follows:

§ 175.540 Equivalents.

* * * * *

(d) The Commandant may accept alternative compliance arrangements in lieu of specific provisions of the International Safety Management (ISM) Code (IMO Resolution A.741(18)) for the purpose of determining that an equivalent safety management system is in place on board a vessel. The Commandant will consider the size and corporate structure of a vessel's company when determining the acceptability of an equivalent system. Requests for determination of equivalency must be submitted to Commandant (G–MOC) via the cognizant OCMI.

PART 176—INSPECTION AND CERTIFICATION

21. Revise the authority citation for part 176 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

22. Add § 176.925 to read as follows:

§ 176.925 Safety Management Certificate.

(a) All vessels that carry more than 12 passengers on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

(b) All such vessels must meet the applicable requirements of 33 CFR part 96.

(c) A Safety Management Certificate is issued for a period of not more than 60 months.

23. Revise § 176.930 to read as follows:

§ 176.930 Equivalents.

As outlined in Chapter I (General Provisions) Regulation 5, of SOLAS, the Commandant may accept an equivalent to a particular fitting, material, apparatus, or any particular provision required by SOLAS regulations if satisfied that such equivalent is at least as effective as that required by the regulations. An owner or managing operator of a vessel may submit a request for the acceptance of an equivalent following the procedures in § 175.540 of this chapter. The Commandant will indicate the acceptance of an equivalent on the vessel's SOLAS Passenger Ship Safety Certificate or Safety Management Certificate, as appropriate.

PART 189—INSPECTION AND CERTIFICATION

24. Revise the authority citation for part 189 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

25. Add § 189.60–30 to read as follows:

§ 189.60–30 Safety Management Certificate.

All vessels to which 33 CFR part 96 applies on an international voyage must have a valid Safety Management Certificate and a copy of their company's valid Document of Compliance certificate on board.

26. In § 189.60–40, revise paragraph (b) to read as follows:

§ 189.60–40 Duration of certificates.

* * * * *

(b) A Cargo Ship Safety Construction Certificate and a Safety Management Certificate are issued for a period of not more than 60 months.

* * * * *

Dated: December 16, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–33528 Filed 12–19–97; 3:32 pm]

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Part VI

Department of Energy

10 CFR Part 1008

Records Maintained on Individuals (Privacy Act); Final Rule

Privacy Act of 1974; Establishment of a New System of Records; Notice

DEPARTMENT OF ENERGY

10 CFR Part 1008

RIN 1901–AA62

Records Maintained on Individuals (Privacy Act)

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Privacy Act regulations by adding a system of records to the list of systems exempted from certain subsections of the Act. Exemption from certain subsections is needed to enable the Office of Inspector General (OIG) to perform its duties and responsibilities. The system of records is entitled ''Allegation-Based Inspections Files of the Office of Inspector General,'' and allows the Office of Inspector General to perform its functions mandated by statute, regulation or executive order. This system will maintain documents collected in the process of conducting inspections. An Office of Inspector General inspection is an examination of DOE or DOE contractor organizations, programs, projects, functions, or activities. This system of records covers only the files of inspections predicated on allegations or complaints and which identify subjects or sources of information by name. Inspections performed relate to sensitive allegations of wrongdoing received concerning certain individuals, including agency and DOE contractor employees, or other persons or entities with some relationship to the agency. Allegations include, but are not limited to, abuse of authority; misuse of government time, property, or position; conflicts of interest; whistleblower reprisal; or other non-criminal violations of law, rules, or regulations.

EFFECTIVE DATE: January 23, 1998.

FOR FURTHER INFORMATION CONTACT: Jacqueline M. Becker, Office of Inspector General, U.S. Department of Energy, IG–1, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–4393; or GayLa D. Sessoms, Director, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, HR–73, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–5955; or Abel Lopez, Office of General Counsel, U.S. Department of Energy, GC–80, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–8618.

SUPPLEMENTARY INFORMATION:

I. Background

II. Procedural Requirements

A. Regulatory Review
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. Review Under the National Environmental Policy Act
G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

I. Background

The Privacy Act of 1974, as amended, at 5 U.S.C. 552a (k) provides that the head of an agency may exempt an agency system of records from certain provisions of the Act. Accordingly, this system of records is added to the list of systems exempted by the Department of Energy from certain subsections of the Act.

The purpose of this rule is to amend the DOE's Privacy Act regulations to enable the Office of Inspector General to carry out its duties and responsibilities as mandated by the Inspector General Act. The Inspector General is mandated to promote economy, effectiveness, and efficiency within the agency and to prevent and detect fraud, waste and abuse in agency programs and operations.

The Office of Inspections in the Office of Inspector General compiles various files that are collected and maintained to assist in the performance of the functions of the Office of Inspector General. The Office of Inspections performs various inspections and analyses as required by the Office of Inspector General. An inspection by the Office of Inspector General is an examination of a DOE or DOE contractor organization, program, project, function, or activity. This system of records covers only the files of inspections predicated on allegations or complaints and which identify subjects or sources of information by name. Inspections performed relate to sensitive allegations of wrongdoing received concerning certain individuals, including agency employees, or other persons or entities with some relationship to the agency and DOE contractors. Allegations include, but are not limited to, abuse of authority; misuse of government time, property, or position; conflicts of interest; whistleblower reprisal; or other non-criminal violations of law, rules, or regulations.

A notice of proposed rulemaking and corresponding system notice were published in the **Federal Register** on January 29, 1997 (62 FR 4404). No comments were received.

II. 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 the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this regulation meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354. The Regulatory Flexibility Act requires the preparation of a regulatory flexibility analysis for any proposed rule which is likely to have a significant economic impact on a

substantial number of small entities. The Department of Energy certified that the rule will not have a significant economic impact on a substantial number of small entities. The Department did not receive any comments on the certification.

D. Review Under the Paperwork Reduction Act

No new information collection or record keeping requirements are imposed by this rule. As a result, 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 new policy action. This rule will not affect States, or the relationship between the Federal Government and the States, in any direct way.

F. Review Under the National Environmental Policy Act

This rulemaking amends the Department's regulations that implement the Privacy Act at 10 CFR part 1008, ''Records Maintained on Individuals (Privacy Act),'' by adding a new system of records to the list of systems exempted from certain subsections of the Privacy Act. Under the new system of records, the Department would maintain documents collected in inspections conducted by the Office of Inspector General. Implementation of this rule would only affect the manner in which certain files are maintained and made accessible to the public, and would not result in environmental impacts. The Department has therefore determined that this rule is covered under the Categorical Exclusion found at paragraph A.5 of Appendix A to Subpart D, 10 CFR part 1021, which applies to the amendment or interpretation of existing regulation that does not change the environmental effect of the rule being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

List of Subjects in 10 CFR Part 1008

Privacy.

Issued in Washington, D.C. on November 25, 1997.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

For the reasons set forth in the preamble, 10 CFR part 1008 is amended as set forth below:

PART 1008—RECORDS MAINTAINED ON INDIVIDUALS (PRIVACY ACT)

1. The authority citation continues to read as follows:

Authority: 42 U.S.C. 7101, *et seq.*, Executive Order 12091, (42 FR 46267), 5 U.S.C. 552a.

2. Section 1008.12 is amended by adding paragraphs (b)(2)(ii)(M) and (b)(3)(ii)(O) to read as follows:

§ 1008.12 Exemptions.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(M) Allegation-Based Inspections Files of the Office of Inspector General (DOE–83).

(3) * * *

(ii) * * *

(O) Allegation-Based Inspections Files of the Office of Inspector General (DOE–83).

* * * * *

[FR Doc. 97–33600 Filed 12–23–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Department of Energy.

ACTION: Final notice; establishment of a new system of records.

SUMMARY: The Department of Energy (DOE) published in the **Federal Register** on January 29, 1997, (62 FR 4408) a proposed system of records identified as DOE–83, and entitled ''Allegation-Based Inspections Files of the Office of Inspector General.'' The Office of Inspector General's Office of Inspections compiles various files that are collected and maintained to assist in the performance of the functions of the Office of Inspector General. The Office of Inspections performs various inspections and analyses as required by the Office of Inspector General. An Office of Inspector General inspection is an examination of a DOE or DOE contractor organization, program, project, function, or activity.

This system of records covers only the files of inspections based on allegations or complaints and which identify subjects or sources of information by name. Inspections performed relate to sensitive allegations of wrongdoing received concerning certain individuals, including agency or DOE contractor employees, or other persons or entities with some relationship to the agency. Allegations include, but are not limited to, abuse of authority; misuse of government time, property, or position; conflicts of interest; whistleblower reprisal; or other non-criminal violations of law, rules, or regulations. The system of records contains but is not limited to, work papers; summaries of work papers; memoranda of interviews; interview notes; memoranda to the file; memoranda for the record; information provided by complainants, contractors, and other interested parties; and related documentation.

FOR FURTHER INFORMATION CONTACT: Jacqueline M. Becker, Office of Inspector General, U.S. Department of Energy, IG–1, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–4393; or GayLa D. Sessoms, Director, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, HR–73, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–5955; or Abel Lopez, Office of General Counsel, U.S. Department of Energy, GC–80, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–8618.

EFFECTIVE DATE: December 24, 1997.

SUPPLEMENTARY INFORMATION: The DOE published for public comment in the **Federal Register** on January 29, 1997, (62 FR 4409) a proposed system of records entitled ''Allegation-Based Inspections Files of the Office of Inspector General.'' No comments were received concerning the proposed system. This system of records covers only files of inspections based on allegations and complaints and which identify subjects or sources of information by name. The system of records is necessary to perform the functions of the Office of Inspector General. Exemptions to certain provisions of the Privacy Act also are necessary and are published herein.

Allegation-Based Inspections Files are maintained to document information concerning allegations or complaints about DOE or DOE contractor programs or operations. The files may contain information about civil or administrative wrongdoing, or about fraud, waste, or mismanagement, or other violations of law or regulation. This information could be the basis for administrative corrective action or referrals to appropriate authorities for civil or criminal investigation or prosecution.

The Allegation-Based Inspections Files contain information that if disclosed would substantially compromise the effectiveness of Office of Inspector General inspections and inquiries. These files contain information about informants, complainants, contractor personnel, sources of information, witnesses, and inspections personnel. These files also contain the names of persons or agencies who have received certain information contained in these files.

Information in this system of records is maintained pursuant to certain functions of the Inspector General (IG). Those functions require that the Office of Inspections conduct inspections and analyses of Departmental operations and programs. Exemptions from certain provisions of the Privacy Act are needed to accomplish the inspection function of the Office of Inspector General, to maintain the integrity and confidentiality of personal information, and to prevent disclosure of sensitive or classified information. These exemptions are also needed to prevent subjects of inspections or inquiries from frustrating the inspection or inquiry process and to prevent the disclosure of inspection or inquiry techniques. Finally, these exemptions enable the Inspector General to fulfill commitments to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering sources or Office of Inspections personnel.

The information that is exempt includes, but is not limited to, information that identifies program operating procedures, program operation violations, program management violations, and alleged violators. This information consists of identifying data and information about fraud, waste, or mismanagement. Other exempt data include documentation, information from informants, complainants, contractor personnel, reports by inspectors, and information that can identify an individual.

When a Privacy Act request for exempt records concerning an individual is received from that individual, that request will be processed under the Freedom of Information Act. This will provide the maximum disclosure of responsive records to the individual.

This system is established pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3. The statute mandates that the Inspector General provide leadership and coordination, and recommend policies for activities designed to promote economy, effectiveness, and efficiency in the administration of DOE programs or operations. The Inspector General is also mandated to conduct activities relating to the prevention or detection of fraud or abuse in these programs or operations.

The maintenance of this system could have a substantial effect on the privacy and other rights of individuals. However, the Department has adopted measures to ensure that maintaining this information will not compromise the privacy and other rights of the affected individuals. The information will be collected only for the stated purpose, access to the information will be restricted, and the information will be maintained in a secured manner.

The text of the system notice is set forth below.

Issued in Washington, D.C. on 1997.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

DOE–83

SYSTEM NAME:

Allegation-Based Inspections Files of the Office of Inspector General.

SECURITY CLASSIFICATION:

Generally unclassified. Some records may contain classified material.

SYSTEM LOCATION:

Official Allegation-Based Inspections Files are located at:

U.S. Department of Energy, Office of Inspector General, Headquarters, 1000 Independence Avenue, S.W., Washington, D.C. 20585.
U.S. Department of Energy, Office of Inspector General, P.O. Box 5400, Albuquerque, New Mexico 87115.
U.S. Department of Energy, Office of Inspector General, P.O. Box 2254, Livermore, California 94551.
U.S. Department of Energy, Office of Inspector General, P.O. Box 62, Room 502, Oak Ridge, Tennessee 37831.
U.S. Department of Energy, Office of Inspector General, Building 703–41A, Aiken, South Carolina 29802.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of inspections or inquiries concerning allegations or complaints, individuals who have pertinent knowledge about the inspection or inquiry, individuals authorized to furnish information, confidential informants, complainants, Office of Inspector General inspections personnel, and other individuals involved in these inspections.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inspection files predicated on allegations or complaints and which identify subjects or sources of information by name. Inspections performed relate to sensitive allegations of wrongdoing received concerning certain individuals, including agency employees, or other persons or entities with some relationship to the agency. Allegations include, but are not limited to, abuse of authority; misuse of government time, property, or position; conflicts of interest; whistleblower reprisal; or other non-criminal violations of law, rules, or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3.

PURPOSE(S):

Pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, the records in this system are used by the Office of Inspector General in furtherance of the responsibilities of the Inspector General. These responsibilities include evaluating the effectiveness and efficiency of an operation, determining compliance with laws and regulations, evaluating Departmental program operations and results, preventing and detecting fraud and abuse in such programs and operations, and assuring the investigation of complaints by contractor employees alleging retaliation for making disclosures protected under 10 CFR part 708 and 41 U.S.C. § 265.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, information contained in the files of the Office of Inspector General, Office of Inspections is collected and maintained in carrying out the duties and responsibilities of the Inspector General to evaluate the effectiveness and efficiency of an operation, determine compliance with laws and regulations, evaluate Departmental program operations and results, prevent and detect fraud and abuse in such programs and operations and, assure the investigation of complaints by contractor employees alleging retaliation for making disclosures protected under 10 CFR part 708 and 41 U.S.C. 265. Material compiled is used for prosecutive, civil, or administrative actions.

1. Pursuant to § 552a(b)(7), the Department will provide a record within this system of records for law enforcement purposes at the prior written request of the head (or designee of the head) of a Federal agency or instrumentality. In the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, or procedure, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the Department, at its initiative, may refer relevant records in the system of records as a routine use to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order.

2. To disclose information to any source from which additional information is requested, when necessary to obtain information relevant to an Office of Inspector General inspection. The source will be provided such information from the system of records only to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

3. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter and the Department deems the disclosure to be compatible with the purpose for which the Department collected the information.

4. For purposes of settlement of claims and the preparation and conduct of litigation, a record in this system of records may be disclosed to: (1) The Department's and its contractors' counsel; (2) other counsel representing the United States Government; (3) individuals or companies represented by Department counsel or counsel to other United States Government agencies; (4) opposing counsel; (5) persons possessing information pertaining to the claims or litigation to the extent necessary to obtain relevant information; and (6) claimants or other parties to the claim or litigation.

5. A record from this system of records may be disclosed in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings, or discussion in open court) when individuals or entities listed below are parties to, or have an interest in, the litigation or proceedings and the Department determines that such disclosure: (1) Is relevant to, and necessary for, the proceeding and (2) is compatible with the purpose for which the Department collected the records:

(a) The agency, or any component thereof;
(b) Any employee of the agency in his or her official capacity;
(c) Any employee of the agency in his or her individual capacity where the United States has agreed to represent the employee;
(d) The agency's contractors and contractors' employees where the Department has agreed, or is obligated by statute, to represent such persons; and
(e) The parties and their representatives in a 10 CFR part 708 or 41 U.S.C. § 265 proceeding.

6. A record from this system of records may be disclosed to foreign governments or international organizations, in accordance with treaties, international conventions, or executive agreements.

7. A record from this system of records may be disclosed as a routine use to the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and

clearance process as set forth in that Circular.

8. A record from this system of records may be disclosed to Department contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to Department officers and employees under the Privacy Act.

9. A record from this system of records may be disclosed to a member of Congress submitting a request involving an individual when the individual has requested assistance from the member with respect to the subject matter of the record, and the member of Congress provides a copy of the individual's request or another written statement clearly delineating the scope of the individual's request for assistance.

10. A record from this system of records which contains medical and/or psychological information may be disclosed to the physician or mental health professional of any individual submitting a request for access to the record under the Privacy Act of 1974 and the Department's Privacy Act regulations if, in its sole judgment and good faith, the Department believes that disclosure of the medical and/or psychological information directly to the individual who is the subject of the record could have an adverse effect upon that individual, in accordance with the provisions of 5 U.S.C. 552a(f)(3) and applicable Department regulations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, micrographic, and/or electronic media.

RETRIEVABILITY:

By name of individual involved, case number, report title, or subject matter.

SAFEGUARDS:

Allegation-Based Inspections Files are maintained within locked containers or areas. Classified information is maintained in locked General Services Administration approved class 6 security containers. Data maintained on personal computers can be accessed only by authorized staff using established procedures.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE Order 200.1., ''Information Management Program.'' Records within DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate. Automated files are handled and maintained according to approved security processes.

SYSTEM MANAGER AND ADDRESS:

Deputy Inspector General for Inspections, U.S. Department of Energy, Room 5B–250, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

NOTIFICATION PROCEDURES:

The Department of Energy has exempted the system from this requirement. See the Exemption section of this notice.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals and organizations that have pertinent knowledge about a subject individual or corporate entity; those authorized by an individual to furnish information; confidential informants; and Federal Bureau of Investigation (FBI) and other Federal, state, and local entities.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(k) (1) and (2) of the Privacy Act, this system is exempt from the following subsections:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G) and (H)
5 U.S.C. 552a(f)

Exemption (k)(1) provides that the head of an agency may exempt an agency system of records from certain provisions of the Privacy Act if the system of records is subject to Section 552(b)(1) of the Freedom of Information Act, 5 U.S.C. 552. That section of the Freedom of Information Act protects from disclosure properly classified national security information.

The system of records will exempt properly classified national security information in the Office of Inspector General's Allegation-Based Inspections Files. The detailed reasons for exemptions under 5 U.S.C. 552a(k)(1) follow:

(1) 5 U.S.C. 552a(c)(3) requires that, upon request, an agency must give an individual named in a record an accounting which reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient. The Department of Energy has programs involving classified material which may be the subject of Office of Inspections review. The application of this accounting provision to reviews involving properly classified material could reveal classified material. If this information about classified material were disclosed, national security might be compromised.

An example of an issue involving classified material which can affect national security would be a review of the Department's maintenance or transportation of special nuclear material. Such information could be utilized by terrorist groups. Another example would be Departmental work with intelligence information obtained from other Federal agencies.

(2) 5 U.S.C. 552a(d), (e)(4) (G) and (H), and (f) relate to the following: an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to or amendment of records; and agency procedures relating to access to and amendment of records and the content of information contained in such records. If these provisions were applied to classified material in the Allegation-Based Inspections Files, this could (1) interfere with inspections or inquiries undertaken in connection with national security; (2) disclose the identity of sources kept secret to protect national security and/or reveal classified information kept secret to protect national security information supplied by these sources; or (3) generally violate the secrecy of the classification.

Executive Order 12863 provides the Inspector General with oversight responsibilities pertaining to intelligence activities which are potentially unlawful or contrary to Presidential directive. When reviewing these issues, the Office of Inspections may compile information pertaining to foreign energy matters. Disclosure of such information could identify sensitive sources and methods used by the national intelligence community. The Office of Inspections may compile information regarding classified technology being developed by the Department or other agencies. Disclosure of this information could identify sensitive Departmental projects or operations that could be targets for foreign intelligence service collection operations.

(3) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to

accomplish a purpose of the agency required by statute or Executive Order. The Office of Inspector General does not create the material it collects and has no control over the content of that material.

There are additional reasons why application of this provision could impair inspections and interfere with the statutory responsibilities of the Office of Inspector General. It is not always possible to detect the relevance or necessity of specific information in the early stages of an inspection or inquiry. This applies when an inspection or inquiry uses properly classified information. Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevancy and necessity of such information can be established. Furthermore, information outside the scope of the Office of Inspector General's jurisdiction may be helpful in establishing patterns of activities or problems or in developing information that should be referred to other entities. Such information cannot always readily be segregated.

The detailed reasons for the exemptions under 5 U.S.C. 552a(k)(2) follow: (1) 5 U.S.C. 552a(c)(3) requires that, upon request, an agency must give an individual named in a record an accounting which reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the records and the name and address of the recipient. To apply this provision would alert those who may be the subjects of an inspection or inquiry pertaining to an allegation or complaint to the existence of the inspection or inquiry or that they are the subjects of such an inspection or inquiry. Release of this information could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the inspection or inquiry.

(2) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to the following: an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to or amendment of records; and agency procedures relating to access to and amendment of records and the content of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: to notify an individual, at the individual's request, of the existence of records in an inspection file pertaining to a complaint or allegation about the individual or to grant access to this type of inspection file could (1) interfere with inspections or proceedings predicated on a complaint or allegation, (2) constitute an unwarranted invasion of the personal privacy of others, (3) disclose the identity of confidential sources and reveal confidential information supplied by those sources, or (4) disclose inspection techniques and procedures.

In addition, this system is exempt from paragraph (d)(2) of this section. To require the Office of the Inspector General to amend information thought to be incorrect, irrelevant, or untimely, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its inspections attempting to resolve questions of accuracy.

(3) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed because:

a. It is not always possible to detect the relevance or necessity of specific information in the early stages of an inspection involving a complaint or allegation.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated or the inspection is closed that the relevancy and necessity of such information can be established.

c. In any inspection involving a complaint or allegation, the Inspector General may obtain information concerning the violation of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should be able to retain this information as it may aid in establishing patterns of program violations or criminal activity and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In conducting an inspection or inquiry involving a complaint or allegation, information obtained may relate to the main purpose of the inspection or inquiry as well as to matters under the jurisdiction of another agency. Such information is not readily segregable.

[FR Doc. 97–33601 Filed 12–23–97; 8:45 am]

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federal register

Wednesday
December 24, 1997

Part VII

Department of Transportation

Coast Guard

33 CFR Part 151

46 CFR Part 1, et al.

Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

46 CFR Parts 1, 8, 31, 69, 71, 91, 107, 153, and 154

[CGD 95–010]

RIN 2115–AF11

Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing regulations to provide owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill the requirements for vessel design, inspection and certification. Under this final rule, the Coast Guard can issue a certificate of inspection based upon reports by a recognized, authorized classification society that the vessel complies with the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), other applicable international conventions, classification society rules and other specified requirements. This new procedure will reduce the burden on vessel owners and operators by establishing an alternative to the current Coast Guard inspection system that results in plan reviews and inspections by the vessel's classification society as well as by the Coast Guard.

DATES: This final rule is effective January 23, 1998. Section 8.440 applied to existing vessels as of July 31, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on January 23, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

FOR FURTHER INFORMATION CONTACT: LCDR Daniel Pippenger, Marine Safety and Environmental Protection (G–MSE–1), telephone (202) 267–2997, fax (202) 267–4816.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 27, 1996, the Coast Guard published an interim rule entitled ''Vessel Inspection Alternatives; Classification Procedures'' in the **Federal Register** (61 FR 68510). The Coast Guard received 17 letters commenting on the interim rule. No public hearing was requested, and none was held.

Background and Purpose

On October 4, 1994, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Alternate Inspection Compliance Programs for the U.S. Maritime Industry'' in the **Federal Register** (59 FR 50537). In the comments submitted in response to this NPRM, members of the U.S. maritime industry noted the continuing economic pressure on the U.S. oceangoing merchant fleet and commercial shipbuilding industry. Additional comments were submitted calling for reduction of the cost disadvantage attributed to Coast Guard inspection and certification of U.S. merchant vessels in order to improve the international competitiveness of the U.S. merchant fleet.

In order to address these concerns, the Coast Guard sought a means to alleviate the cost burdens on the maritime industry that resulted from the Coast Guard inspection program. The Coast Guard has had authority under 46 U.S.C. § 3116 to rely on reports, documents and certificates issued by the American Bureau of Shipping (ABS) in carrying out its responsibilities for safety of U.S. merchant vessels and to delegate to ABS the inspection or examination of these vessels. The Coast Guard had in fact delegated to ABS the authority to issue certain certificates required by international conventions, such as the International Convention for the Safety of Life at Sea (SOLAS) Cargo Ship Safety Construction Certificate. Compliance with these standards is required for oceangoing vessels, *i.e.* vessels trading in foreign countries. Additionally, insurance companies require that, before a vessel is insured, it be classed. This means that a classification society must survey a vessel for compliance with its class rules. Class rules are rules developed by the particular classification society to cover the design, construction and maintenance of vessels. To ensure compliance with these class rules and with international standards, classification societies perform surveys on vessels using qualified marine surveyors. Many of the items examined by the classification society surveyors are the same as those examined by Coast Guard marine inspectors in their inspections for certification.

Thus, there is duplication of effort between the Coast Guard and the ABS involving safety of vessels that results in extra costs to U.S. vessel owners. In light of the authority in 46 U.S.C. 3316 to delegate vessel inspections and examinations to ABS, the Coast Guard, in order to address the concerns of the vessel owners regarding these costs, examined the feasibility of an alternative to the current situation that would avoid the duplication of inspections between ABS and the Coast Guard. A joint Coast Guard/ABS task force compared the Coast Guard requirements in the Code of Federal Regulations (CFR) to the class requirements in ABS class rules, SOLAS, and the International Convention for the Prevention of Pollution from Ships, as amended, (MARPOL 73/78) concerning the design, construction and safety systems for oceangoing merchant vessels. The purpose of this comparison was to identify redundancies between the requirements and to determine if the class and international requirements, which U.S. vessels must currently comply with, could be used in place of Coast Guard regulatory requirements. The standard used was whether compliance with the class and international standards would achieve a level of safety equivalent to compliance with Coast Guard regulatory requirements.

The task force determined that many Coast Guard regulatory requirements could be satisfied by certification of compliance with ABS classification rules, SOLAS, MARPOL 73/78, or combination of the three. This led to the development of a U.S. Supplement to the ABS classification rules. This supplement addresses those areas where current Coast Guard requirements are not embodied by either ABS classification rules or international conventions.

The Coast Guard concluded that the design requirements and survey provisions of ABS classification rules, applicable international conventions and the U.S. Supplement to the ABS classification rules provide a level of safety equivalent to corresponding Federal regulations.

As a result of this effort, the Alternate Compliance Program (ACP) was developed to reduce redundant inspection efforts without jeopardizing safety. The Coast Guard expects that,

under the ACP, vessel owners and operators will have reduced vessel down time, greater flexibility in scheduling inspections, and greater flexibility in meeting required standards.

The Coast Guard conducted an ACP pilot program, which was announced by the **Federal Register** notice of February 3, 1995 (60 FR 6687). Its purpose was to test and evaluate the standards and procedures developed for the ACP. Sixty-two ships were enrolled in the pilot program which ended on July 31, 1997. The ACP was implemented on that date under the regulations described in the following paragraphs.

On June 22, 1995, the Coast Guard published a NPRM entitled ''Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules'' in the **Federal Register** (60 FR 32478). The NPRM proposed regulatory changes to allow owners, operators, shipbuilders, and designers of U.S. flagged tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units to use the services of a recognized classification society to conduct inspection and plan review functions now performed by the Coast Guard.

The NPRM proposed establishment of the ACP through addition of new sections in 46 CFR parts 31 (31.01–3), 71 (71.15–5), 91 (91.15–5), and 107 (107.205). These sections would allow the owner or operator of a vessel to submit the vessel for inspection by a recognized classification society. The classification society would survey the vessel and document compliance with applicable international requirements, class rules and its U.S. supplement. The cognizant Coast Guard Officer-in-Charge, Marine Inspection, could then issue a certificate of inspection based upon the classification society's reports documenting that the vessel is classed and that it complies with all applicable requirements.

On December 27, 1996, the Coast Guard published an interim rule entitled ''Vessel Inspection Alternatives; Classification Procedures'' in the **Federal Register** (61 FR 68510). This rulemaking with the addition of other 46 CFR sections not included in the NPRM, implemented the ACP program.

Discussion of Comments and Changes

In a continuous effort to refine the ACP, several minor technical changes are needed to facilitate clear application of this rule.

The Coast Guard amended the text of 46 CFR 8.450 to clarify the status of international certificates issued by a classification society whose authority to participate in the ACP is terminated. If a classification society is no longer eligible to participate in the ACP, the certificates issued by that society would remain valid subject to any termination of authorization to issue those certificates on behalf of the Coast Guard as detailed in § 8.330. Also, the Coast Guard will notify a vessel owner of the time frame required for such action. Because of the many variables involved in the possible termination of authority of a classification society to participate in the ACP, such as the reason for termination or the number of ships involved, it is not reasonable to set a specific time limit for accomplishment of the required action.

The current regulatory text regarding four of the certificates listed in § 8.320 (International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk; MARPOL 73/78 International Oil Pollution Prevention Certificate; and MARPOL 73/78 International Oil Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk) allows only the Coast Guard to issue these certificates to U.S. flag vessels. The intent of this rulemaking is to allow certain classification societies to issue these certificates on behalf of the U.S. as well. Therefore, modification to 33 CFR part 151, 46 CFR part 153 and 154 are necessary.

In § 8.100, the definition of ''MARPOL 73/78'' was changed to be consistent with the definition in 33 U.S.C. 1901.

As the ACP has been implemented, the Coast Guard has recognized that additional references to rules and approved supplements are necessary. Because a supplement is approved related to a specific year of classification society rules and international conventions, it is appropriate to update and approve the supplement each time a new set of classification society rules are approved. Therefore, each year, the Coast Guard anticipates approving and incorporating a set of classification society rules and a companion supplement. To facilitate this process, the Coast Guard eliminated the direct listing of approved classification society rules and supplements in the applicable 46 CFR parts (31, 71, 91, and 107) and modified the language of those sections to refer the user to one section for a list of incorporated classification society rules and supplements in § 8.110(b).

In § 8.320, the list of certificates requires correction. The ''SOLAS Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk'' and the ''SOLAS Certificate of Fitness for the Carriage of Liquefied Gases in Bulk'' are correctly titled the ''International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk'' and the ''International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk''.

Participation of a vessel in the ACP is contingent upon several items in § 8.410. One requirement is that the vessel be ''classed'' by a recognized classification society that is authorized to participate in the ACP. To clearly convey the Coast Guard's understanding of what it means for a vessel to be ''classed,'' the Coast Guard added a definition of the term to § 8.100.

The applicability in § 8.410 specified that the ACP applies to all U.S. flag vessels that meet certain requirements. However, the ACP is currently open to U.S. flag tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units (MODUs). To accurately reflect these limitations, § 8.410 will refer each vessel type to the appropriate subchapter of 46 CFR containing the authorization to use the ACP in place of other requirements.

46 CFR subchapter G, § 69.27(b) requires an organization to be a full member of the International Association of Classification Societies (IACS) and incorporated under the laws of the United States, a State of the United States, or the District of Columbia to be eligible for delegated tonnage measurement authority. There is no statutory requirement for these criteria and they are inconsistent with the intent of the ACP rulemaking, which is to allow classification societies, regardless of home country, meeting the standards in part 8, to be recognized and delegated authority to perform services on behalf of the Coast Guard. Therefore, the final rule modifies this section so the ACP can function as intended.

The Coast Guard received a total of 17 letters that commented on the ACP interim rule. All letters expressed support for the program. One comment specifically mentioned the reduced cost and increased options the ACP will give the maritime industry. Some letters contained suggestions for improvement in areas that may need adjustment. The following discussion addresses these comments.

Ten comments addressed issues relating to reciprocity. One comment noted that not all classification societies can ''certify'' in their own home country. These comments recommended modification of acceptance to include recognition when authorization to ABS is equal to that allowed by the country of origin. The Coast Guard will delegate

the authority to issue listed certificates when all of the conditions for reciprocity, recognition, and authorization are met. This approach is consistent with the language in the Coast Guard Authorization Act of 1996 (Pub. L. 140–324), and will result in the most efficient delegation program. To allow the appropriate flexibility needed for successful application of the ACP program, the Coast Guard will modify § 8.120(a). The Coast Guard will grant authorization to a foreign classification society to issue international certificates on a ''case-by-case'' basis. Some of the factors that the Coast Guard may consider in granting authorization are:

- Whether the foreign classification society has a satisfactory port state control history;
- Whether the foreign classification society has met the criteria contained in 46 CFR 8.230;
- Whether the foreign classification society developed a U.S. supplement to its class rules for use in the ACP that is in accordance with 46 CFR 8.430, as appropriate; and whether the home government of the foreign classification society has provided, or will simultaneously provide, ABS sufficient access to inspect, certify and provide related services to vessels documented in that country.

One of the comments suggested that the Coast Guard establish an annual review of reciprocity provisions. An annual review of reciprocity is unnecessary. In the event that the American Bureau of Shipping undergoes any changes in their foreign government authorizations, it is reasonable to expect that the Coast Guard will be notified by the American Bureau of Shipping of any such changes, at which time the Coast Guard will review the applicable reciprocity provisions for appropriate resolution.

Two comments recommended the removal of the 2-year trial period prior to being eligible to participate in the ACP as required in § 8.420. The Coast Guard does not agree. The ACP is a very comprehensive program that covers issues not addressed by international convention requirements. In the ACP, participating vessels have limited involvement with the Coast Guard and the Certificate of Inspection (COI) is based largely on classification society reports. The Coast Guard has limited experience with foreign classification societies. Therefore, it is prudent to maintain this 2-year trial period in order to gain experience with foreign classification societies, their rules, surveyors, and procedures. Additionally, the 2-year period will allow the Coast Guard to assess the capability and performance of the classification society to ensure they are adequate to perform the extensive delegations granted under the ACP. The Coast Guard is making no change to this requirement.

One comment requested that the Safety Certificate for High Speed Craft be added to the functions that may be delegated in § 8.320. The Coast Guard does not agree. The High Speed Craft Code is new and has had very limited application in the U.S. Until further experience and familiarity are gained with the High Speed Craft Code for U.S. flag vessels, the Coast Guard does not plan to delegate this function.

One comment suggested adding the SOLAS Passenger Vessel Safety Certificate to those listed in § 8.320. Passenger vessels may qualify for participation in the ACP. However, the Coast Guard intends to maintain first hand involvement in the issuance of this certificate due to the degree of risk involved. The Coast Guard will retain authority for issuance of the SOLAS Passenger Vessel Safety Certificate.

One comment was from the United States Environmental Protection Agency (EPA). The EPA expressed concern about authorizing a classification society to issue the International Air Pollution Prevention (IAPP) and the Engine International Air Pollution Prevention (EIAPP) certificates under MARPOL Annex VI. Section 8.320 does not permit delegation of these certificates to a classification society. No change is made in response to this comment.

One comment addressed the definition of the term ''gross tons'' in § 8.100. The comment stated that the terms ''method used by flag state administration'' are confusing and unnecessary since subpart A is limited to U.S. flag vessels. The Coast Guard does not concur. This terminology is necessary because classed tonnage is an element of the minimum standards for a recognized classification society in § 8.230. The Coast Guard intends to allow class societies to count all vessel tonnage they class, regardless of the flag administration. Because not all administrations apply the International Convention on Tonnage Measurement of Ships, 1969, to all measured vessels, this clause is necessary.

One comment questioned the use of the American National Standards Institute (ANSI) standard ANSI/ASQC Q9001 in place of the international standard ISO 9001. The Coast Guard agrees that the international standard is also acceptable. As stated in the rule, a classification society may meet the requirements of the ANSI/ASQC Q9001 or an equivalent quality standard. Therefore, the Coast Guard makes no change in response to this comment.

Five comments recommended changes to the applicability of the ACP. These comments noted that the ACP should not be restricted only to vessels engaged on international voyages but should be open to all vessels that meet international requirements regardless of their ports of call. The term international voyages was used in § 8.410 to ensure that vessels in the ACP carried all applicable international certificates and was not intended to restrict ACP to only those vessels that engage on international voyages. The Coast Guard will modify the wording of § 8.410(b). Instead of the phrase ''engaged in international voyages'', the Coast Guard will use the term ''certificated for international voyages''. This clearly expresses the intent that a vessel participating in the ACP will have a valid set of all certificates necessary to engage in an international voyage.

The ACP is solidly based on the safety system comprised of the following elements: Compliance with all relevant international requirements, classification society rules, and the relevant U.S. supplement. This safety system is being accepted in the ACP as an equivalent to the system embodied in Title 46 of the CFR. Thus, U.S. flagged vessels that do not carry valid and appropriate certificates necessary to engage in international voyages, regardless of class, are not eligible to participate in the ACP.

Two comments related to the use of exclusive surveyors for all work done on behalf of the Coast Guard. One comment requested the use of exclusive surveyors for all ACP work. With the exception of tonnage measurement, the Coast Guard agrees and notes that this is already required under § 8.130(a)(25). Restricting tonnage measurement to exclusive surveyors is contrary to current practice and would reduce flexibility and probably result in higher cost to the public. Section 8.130(a)(25) has been modified to allow the use of part-time employees or independent contractors to provide tonnage measurement services.

The other comment requested the use of one classification society's exclusive surveyors by other classification societies if the two societies involved have a bilateral agreement. The Coast Guard does not agree. When authorizing a classification society to do work related to the ACP, the Coast Guard accepts a classification society's rules, survey procedures and processes as an acceptable alternative to federal

regulations. A classification society's own exclusive surveyors are in the best position to accurately enforce these items. Given the scope of delegation and the minimal Coast Guard presence on ACP vessels, the Coast Guard makes no change in response to this comment. However, based on these comments, the Coast Guard has added a definition of ''exclusive surveyor'' to § 8.100 for clarification.

One comment recommended a specific classification society not be allowed to participate in the ACP. The Coast Guard appreciates the intent of the individual to improve the program. All applications for recognition and authorization are carefully reviewed in accordance with part 8. Any classification society meeting these requirements may enter the program. The Coast Guard has made no change in response to this comment.

One comment recommended that authority to issue certificates be revoked if reciprocity conditions were no longer being satisfied. Reciprocity is required by U.S. law in the Coast Guard Authorization Act of 1996 (Pub. L. 104–324, 110 Stat. 3901). The Coast Guard agrees and has modified §§ 8.330 and 8.450 accordingly.

One comment contained recommendations on document availability. It requested all documents to be maintained in a public docket. The Coast Guard disagrees. Some information submitted during the application for recognition of a classification society is clearly proprietary and therefore inappropriate for release. Information regarding recognition and authorization status will be available in accordance with the Freedom of Information Act. The Coast Guard is making no change in response to this comment.

One comment on § 8.320(a)(7) recommended the removal of the term ''SOLAS'' from the ''SOLAS Mobile Offshore Drilling Unit Safety Certificate.'' The Coast Guard agrees and will correct this certificate title to ''International Maritime Organization (IMO) Mobile Offshore Drilling Unit Safety Certificate.''

One comment stated that load line and tonnage admeasurement should be harmonized to require reciprocity with the delegations under ACP. The Coast Guard does not agree. Delegation of these functions is permitted under 46 U.S.C. 5107 and 46 U.S.C. 14103, respectively, and reciprocity is not an element of the conditions of delegation. The Coast Guard is making no change in response to this comment.

One comment stated that a recognized classification society should have the right to refuse to conduct services. The Coast Guard agrees. However, the interim rule does not restrict the classification society actions in this regard. In consideration of this comment, the Coast Guard modified the text in § 8.130(a)(10) to recognize that a classification society may have occasion to refuse to attend a vessel for which it has performed a delegated function on behalf of the Coast Guard, when requested by the Coast Guard.

One comment requested that documents be ''in a language which is mutually acceptable to both parties.'' The Coast Guard does not agree. The Coast Guard requires documents related to delegated functions to be in English. There is no change to § 8.130(a)(18) or § 8.230(a)(7) and (8) in response to this comment.

One comment suggests that the Coast Guard accept oversight monitoring by other administrations. The Coast Guard agrees that oversight and monitoring activities conducted by other administrations may be useful to the delegated functions of the ACP. The Coast Guard does not agree that any added text to § 8.130(a)(22) is warranted. The intent of this agreement condition is to ensure that an authorized classification society will allow the Coast Guard the necessary access to perform its own oversight activities. This agreement condition does not prohibit other means of attaining information as part of the Coast Guard's oversight activities.

One comment stated that reciprocity was intended to solidify ABS market shares and not to advance marine safety. The Coast Guard disagrees. Reciprocity is included because it is required under the Coast Guard Authorization Act of 1996 (Pub. L. 104–324). This provision may increase the choices available to the marine industry and result in lower costs. The Coast Guard makes no change in response to this comment.

One comment requested amendment to § 8.410(b) to further expand ACP applicability to foreign flag MODUs required to obtain a letter of compliance under 33 CFR subchapter N. The Coast Guard does not agree. The ACP is available for U.S. flag vessels as an alternative to compliance with U.S. regulations. The Coast Guard reiterates that the safety system of class rules, international conventions, and the supplement to class rules is considered as an alternative to U.S. regulations. Foreign flag vessels are not subject to U.S. vessel standards and therefore, are not considered in this program. There is no change in response to this comment.

One comment welcomed the ACP because COIs can be issued by foreign class societies. The Coast Guard agrees that the ACP allows foreign classification societies to apply for recognition and authorization to perform delegated functions under part 8. However, the Coast Guard retains the authority to issue COIs.

One comment recommended a change in the term ''serviced'' in § 8.230(a)(17). The Coast Guard agrees and has clarified the language. The change will ensure that vessels on which a delegated function has been performed comply with all statutory requirements related to the delegation functions.

Three comments encouraged user fee reduction. The Coast Guard agrees that participation in ACP may result in lower fees. However, the purpose of this rulemaking is not to make changes to user fees. There are no changes made to this rule in response to this comment.

Two comments concerned supplements. One pointed out the necessity of the supplement. The other encouraged that the supplement be simplified and used to lead to harmonization with industry standards. The Coast Guard agrees with the spirit of these comments. In general, a supplement for the ACP contains cites from four sources:

- Statutory Requirements,
- SOLAS Interpretations,
- Critical safety issues where the combination of classification society rules and international conventions do not provide an equivalent level of safety to the CFR, or
- Other requirements that apply to all ships (primarily navigation safety and pollution prevention).

Because all classification society rules are not identical in scope, the supplement is needed. The Coast Guard is actively pursuing harmonized international interpretations to SOLAS. Where the combination of classification society rules and international conventions do not provide an equivalent level of safety, the Coast Guard intends to pursue these items individually with the classification society or through amendment of the international convention as appropriate. Ideally, these Coast Guard efforts may result in an equivalent level of safety and remove the need for additions to classification society rules. In addition, the Coast Guard has pursued harmonization with industry standards and will continue to seek additional opportunities to do so. There are no changes as a result of these comments.

One comment encouraged the Coast Guard to accept foreign class standards without rigid adherence to U.S. regulations. The Coast Guard agrees that an individual regulation, considered in

isolation, may not always be the best or most suitable standard for a particular vessel. However, the Coast Guard considers the Code of Federal Regulations (CFR) to represent a comprehensive set of standards for commercial vessel safety. The Coast Guard has worked extensively with the U.S. maritime industry in the application of standards other than those specifically prescribed in the CFR, and has allowed use of equivalent standards in many cases. The Coast Guard will ensure that a double standard does not develop between vessels that participate in ACP and those that do not. ACP standards will remain equivalent in scope and result in no reduction in safety. There is no change made as a result of this comment.

Two comments addressed reporting requirements for port-state control violations. One comment recommended a change in the term ''ensure'' in § 8.230 paragraphs (a)(16) and (a)(17). The comment contends that no classification society has the power to ensure compliance. Compliance is dependent on factors outside of the control of the classification societies. The Coast Guard agrees and will modify the text to more accurately reflect this condition.

One comment recommended that Oil Spill Recovery Vessels (OSRVs) be included in ACP with appropriate modification to corresponding regulations for this vessel type. The absence of specific regulations for OSRVs precludes their inclusion in the ACP at this time. The Coast Guard will consider participation of OSRVs after determining what regulations apply to them.

One comment encouraged classification society fee restraints for vessels participating in the ACP. While the intent of this rulemaking is to reduce the cost associated with dual inspection, the Coast Guard will not be involved with the establishment of classification society fees for services related to the ACP program. The ACP is a voluntary program and traditional Coast Guard inspection remains available to U.S. flag vessels that require Coast Guard certification.

One comment expressed concern about the ACP being used to bring more vessels under ABS class. The Coast Guard disagrees. Initially, the ACP was developed with ABS based on the extensive experience that the Coast Guard has with delegation of certification functions to ABS. Until the passage of the Coast Guard Authorization Act of 1996 (Pub. L. 104–324), delegation of this nature was restricted by law to U.S. classification societies. The ACP is now available to foreign based classification societies as well. There is no change made as a result of this comment.

One comment questioned how appeals will be handled. There are two different levels of appeals. In the first level, a vessel owner, operator, or builder may desire to appeal the decision of an ACP authorized classification society or the Coast Guard. This procedure is defined in Coast Guard policy guidance and is published as Navigation and Vessel Inspection Circular (NVIC) No. 2–95, Change 1. On another level, a classification society may wish to appeal the decision of the Coast Guard with respect to its application for recognition. There was no appeal provision in the Interim Rule for this condition. In response to this comment, the Coast Guard has added a provision for a classification society to appeal the decision of the Coast Guard in § 8.420, related to the recognition application.

One comment recommended that the criteria for recognition be modified to be performance based. The comment suggested dropping the size and age criteria and the use of the term ''adequate'' within the list. The Coast Guard agrees in part. Performance is important. However, other criteria required by the rule indicate characteristics of the classification society that the Coast Guard determines to be necessary to assess quality prior to recognition. Considering the importance of the delegated work, no change is made in response to this comment.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 8.110 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in that section.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Coast Guard expects this rule to provide an economic benefit to the owners and operators of U.S. flagged vessels. Currently, 549 U.S. vessels may be eligible to participate in this optional ACP. The Coast Guard estimates that while a vessel owner may have to pay an additional $5,000 in classification society fees for functions presently performed by the Coast Guard, the savings in design, construction and operating costs will recover this expense many times over during the lifetime of the vessel. Moreover, ships built and maintained to SOLAS, MARPOL 73/78, recognized classification society rules and accepted U.S. supplement are expected to experience greater competitiveness in the worldwide shipping market.

Additionally, streamlining the certification process will reduce time frames for Coast Guard involvement in the COI process from an average of over 50 hours to 10 hours or less. Because the vessel is already inspected by the classification society, this program will reduce duplication of effort, decrease vessel ''down time'' and permit greater scheduling flexibility. Lower construction and operating costs, greater flexibility for the vessel in the global market and additional availability for vessel hire will offset the costs incurred through the alternate plan review and inspection process utilizing a recognized classification society. The Coast Guard specifically solicits comments on potential costs, savings and benefits.

The Coast Guard expects no impact to the regulatory assessment as a result of changes to this rulemaking.

Small Entities

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

This rule change provides an alternative to complying with existing regulations. The Coast Guard determined this rulemaking will have a positive economic impact if the owner chooses to participate in the ACP. Because of the current structure of the industry, it is not expected that any small businesses will be affected by the rule. However, under Section 601 of the Regulatory Flexibility Act, the Coast Guard has provided a flexible approach which could benefit any small

businesses which choose to enter this industry. This rulemaking will have no impact on vessel owners who do not choose to participate in this program. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offers to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. Assistance with provisions of this final rule can be obtained by contacting Commandant (G–MSE), Office of Design and Engineering Standards, 2100 Second Street, SW., Washington, DC 20593–0001, telephone 202–267–2997.

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Vessel inspection reports are needed to document the compliance of a vessel with recognized classification society rules, the accepted U.S. supplement to rules, and applicable international maritime safety and marine environmental conventions. Classification societies recognized to participate in this program will submit copies of reports they routinely prepare to the Coast Guard.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section numbers are: §§ 31.01–3, 71.15–5, 91.15–5, and 107.205, and the corresponding approval number from OMB is OMB Control Number 2115–0626, which expires on June 30, 1999.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

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

The authority to regulate safety requirements of U.S. vessels is committed to the Coast Guard by statute. Furthermore, since these vessels tend to move from port to port in the national market place, these safety requirements need to be national in scope to avoid numerous, unreasonable and burdensome variances. Therefore, this action will preempt State action addressing the same matter.

Federal Preemption

Historically, the Coast Guard has inspected vessels for their compliance with Federal regulations that address the safety of a vessel and protection of the marine environment. These regulations establish design, construction, equipment, manning and other inspection standards that are part of international conventions to which the U.S. is a party as well as other inspection standards that assure the safety of a vessel participating in this alternative inspection program. The certificate of inspection issued to a vessel by the Coast Guard as a result of this inspection program indicates that the vessel is safe for the service in which it is engaged. It is the Coast Guard's opinion that the Supremacy Clause of the Constitution would preempt state and local regulations that seek to impose different or higher standards governing the inspection of a U.S. vessel as established in these regulations.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule is excluded based on its inspection and equipment aspects. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Since the combination of classification society rules, applicable international conventions and the U.S. supplement to the rules have been determined to provide a level of safety equivalent to current Coast Guard regulations, the Coast Guard expects that this rulemaking will have no adverse environmental impact.

List of Subjects

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 8

Administrative practice and procedure, Incorporation by reference, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 31

Marine safety, Reporting and recordkeeping requirements, Tank vessels.

46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 154

Cargo vessels, Gases, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, under the authority of 46 U.S.C. 3306, the Coast Guard amends 33 CFR part 151 and 46 CFR parts 1, 8, 31, 69, 71, 91 107, 153, and 154 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

1. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(c) and 1903(b); E.O. 12777, 3 CFR, 1991 Comp. P. 351; 49 CFR 1.46.

2. Revise § 151.19(c) to read as follows:

§ 151.19 International Oil Pollution Prevention (IOPP) Certificates.

* * * * *

(c) An IOPP Certificate is issued by a COTP, OCMI, or a classification society authorized under 46 CFR part 8, after a satisfactory survey in accordance with the provisions of § 151.17.

* * * * *

§ 151.37 [Amended]

3. In § 151.37, in paragraphs (a), (b), and (c), remove the words ''Coast Guard issues'' and add, in its place, the words ''Coast Guard or a classification society authorized under 46 CFR part 8 issues''.

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1045, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

5. Add § 1.03–15(h)(4) to read as follows:

§ 1.03–15 General.

* * * * *

(h) * * *

(4) Commandant (G–MSE) for appeals involving the recognition of a classification society.

* * * * *

6. Revise part 8 to read as follows:

PART 8—VESSEL INSPECTION ALTERNATIVES

Subpart A—General

Sec.
8.100 Definitions.
8.110 Incorporation by reference.
8.120 Reciprocity.
8.130 Agreement conditions.

Subpart B—Recognition of a Classification Society

8.200 Purpose.
8.210 Applicability.
8.220 Recognition of a classification society.
8.230 Minimum standards for a recognized classification society.
8.240 Application for recognition.
8.250 Acceptance of standards and functions delegated under existing regulations.
8.260 Revocation of classification society recognition.

Subpart C—International Convention Certificate Issuance

8.300 Purpose.
8.310 Applicability.
8.320 Classification society authorization to issue international certificates.
8.330 Termination of classification society authority.

Subpart D—Alternate Compliance Program

8.400 Purpose.
8.410 Applicability.
8.420 Classification society authorization to participate in the Alternate Compliance Program.
8.430 U.S. Supplement to class rules.
8.440 Vessel enrollment in the Alternate Compliance Program.
8.450 Termination of classification society authority.

Authority: 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; 46 U.S.C. 3703; 49 CFR 1.45, 1.46.

Subpart A—General

§ 8.100 Definitions.

Authorized Classification Society means a recognized classification society that has been delegated the authority to conduct certain functions and certifications on behalf of the Coast Guard.

Class Rules means the standards developed and published by a classification society regarding the design, construction and certification of commercial vessels.

Classed means that a vessel meets the classification society requirements that embody the technical rules, regulations, standards, guidelines and associated surveys and inspections covering the design, construction and through-life compliance of a ship's structure and essential engineering and electrical systems.

Commandant means the Commandant of the Coast Guard.

Delegated Function means a function related to Coast Guard commercial vessel inspection which has been delegated to a classification society. Delegated functions may include issuance of international convention certificates and participation in the Alternate Compliance Program under this part.

Delegated Function Related to General Vessel Safety Assessment means issuance of the SOLAS Cargo Ship Safety Construction Certificate or issuance of the SOLAS Cargo Ship Safety Equipment Certificate.

Exclusive Surveyor means a person who is employed solely by a classification society and is authorized to conduct vessel surveys. Independent surveyors, hired on a case-by-case basis, or surveyors of another classification society are not considered exclusive surveyors for the performance of delegated functions on behalf of the Coast Guard.

Gross Tons means vessel tonnage measured in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Vessels not measured by this convention must be measured in accordance with the method utilized by the flag state administration of that vessel.

MARPOL 73/78 means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention which means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols or Annexes which have entered into force for the United States.

Officer in Charge, Marine Inspection (OCMI) means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the superintendence and direction of a Coast Guard District Commander, is in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and administration of 46 U.S.C., Revised Statutes, and acts amendatory thereof or supplemental thereto, and rules and regulations thereunder.

Recognized Classification Society means the American Bureau of Shipping or other classification society recognized by the Commandant under this part.

SOLAS means International Convention for the Safety of Life at Sea, 1974, as amended.

§ 8.110 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and the material must be available to the public. All material is available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Office of Design and Engineering Standards, 2100 Second St., SW., Washington, DC 20593–0001, and is available from the sources listed in paragraph (b).

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)—Two World Trade Center, 106th Floor, New York, NY 10048.

Rules for Building and Classing Steel Vessels, 1996—31.01–3(b), 71.15–5(b), 91.15–5(b)

U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International

Voyages, 21 October 1996—31.01–3(b), 71.15–5(b), 91.15–5(b)

American National Standards Institute (ANSI)—11 West 42nd St., New York, NY 10036.

ANSI/ASQC Q9001–1994, Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994—8.230

§ 8.120 Reciprocity.

(a) The Commandant may delegate authority to a classification society that has its headquarters in a country other than the United States only to the extent that the flag state administration of that country delegates authority and provides access to the American Bureau of Shipping to inspect, certify and provide related services to vessels flagged by that country. The Commandant will determine reciprocity on a ''case-by-case'' basis.

(b) In order to demonstrate that the conditions described in paragraph (a) of this section are satisfied, a classification society must provide to the Coast Guard an affidavit, from the government of the country that the classification society is headquartered in, listing the authorities delegated by the flag state administration of that country to the American Bureau of Shipping, and indicating any conditions related to the delegated authority.

(c) The Commandant will not consider an application for authorization to perform a delegated function submitted under this part until the conditions described in paragraph (a) of this section are satisfied. Where simultaneous authorization by a foreign government for ABS is involved, this requirement may be waived.

(d) The Commandant will not evaluate a classification society for recognition until the conditions described in paragraph (a) of this section are satisfied for at least one of the authorized delegations being sought. Where simultaneous recognition by a foreign government for ABS is involved, this requirement may be waived.

(e) The Commandant may make a delegation regarding load lines under 46 U.S.C. 5107 or measurement of vessels under 46 U.S.C. 14103 without regard to the conditions described in paragraph (a) of this section.

§ 8.130 Agreement conditions.

(a) Delegated functions performed by, and statutory certificates issued by, an authorized classification society will be accepted as functions performed by, or certificates issued by, the Coast Guard, provided that the classification society maintains compliance with all provisions of its agreement with the Commandant. Any agreement between the Commandant and a recognized classification society authorizing the performance of delegated functions will be written and will require the classification society to comply with each of the following:

(1) Issue any certificates related to a delegated function in the English language.

(2) Maintain a corporate office in the United States that has adequate resources and staff to support all delegated functions and to maintain required associated records.

(3) Maintain all records in the United States related to delegated functions conducted on behalf of the Coast Guard.

(4) Make available to appropriate Coast Guard representatives vessel status information and records, including outstanding vessel deficiencies or classification society recommendations, in the English language, on all vessels for which the classification society has performed any delegated function on behalf of the Coast Guard.

(5) Report to the Commandant (G–MOC) the names and official numbers of any vessels removed from class for which the classification society has performed any delegated function on behalf of the Coast Guard and include a description of the reason for the removal.

(6) Report to the Commandant (G–MOC) all port state detentions on all vessels for which the classification society has performed any delegated function on behalf of the Coast Guard when aware of such detention.

(7) Annually provide the Commandant (G–MOC) with its register of classed vessels.

(8) Ensure vessels meet all requirements for class of the accepting classification society prior to accepting vessels transferred from another classification society.

(9) Suspend class for vessels that are overdue for special renewal or annual survey.

(10) Attend any vessel for which the classification society has performed any delegated function on behalf of the Coast Guard at the request of the appropriate Coast Guard officials, without regard to the vessel's location—unless prohibited to do so under the laws of the United States, the laws of the jurisdiction in which the vessel is located, the classification society's home country domestic law, or where the classification society considers an unacceptable hazard to life and/or property exists.

(11) Honor appeal decisions made by the Commandant (G–MSE) or Commandant (G–MOC) on issues related to delegated functions.

(12) Apply U.S. flag administration interpretations, when they exist, to international conventions for which the classification society has been delegated authority to certificate or perform other functions on behalf of the Coast Guard.

(13) Obtain approval from the Commandant (G–MOC) prior to granting exemptions from the requirements of international conventions, class rules, and the U.S. supplement to class rules.

(14) Make available to the Coast Guard all records, in the English language, related to equivalency determinations or approvals made in the course of delegated functions conducted on behalf of the Coast Guard.

(15) Report to the Coast Guard all information specified in the agreement at the specified frequency and to the specified Coast Guard office or official.

(16) Grant the Coast Guard access to all plans and documents, including reports on surveys, on the basis of which certificates are issued or endorsed by the classification society.

(17) Identify a liaison representative to the Coast Guard.

(18) Provide regulations, rules, instructions and report forms in the English language.

(19) Allow the Commandant (G–M) to participate in the development of class rules.

(20) Inform the Commandant (G–M) of all proposed changes to class rules.

(21) Provide the Commandant (G–M) the opportunity to comment on any proposed changes to class rules and to respond to the classification society's disposition of the comments made by the Coast Guard.

(22) Furnish information and required access to the Coast Guard to conduct oversight of the classification society's activities related to delegated functions conducted on behalf of the Coast Guard.

(23) Allow the Coast Guard to accompany them on internal and external quality audits and provide written results of such audits to appropriate Coast Guard representatives.

(24) Provide the Coast Guard access necessary to audit the authorized classification society to ensure that it continues to comply with the minimum standards for a recognized classification society.

(25) Use only exclusive surveyors of that classification society to accomplish all work done on behalf of, or under any delegation from, the Coast Guard. For tonnage-related measurement service only, however, classification societies

may use part-time employees or independent contractors in place of exclusive surveyors.

(26) Allow its surveyors to participate in training with the Coast Guard regarding delegated functions.

(b) Amendments to an agreement between the Coast Guard and an authorized classification society will become effective only after consultation and written agreement between parties.

(c) Agreements may be terminated by one party only upon written notice to the other party. Termination will occur sixty days after written notice is given.

Subpart B—Recognition of a Classification Society

§ 8.200 Purpose.

This subpart establishes criteria and procedures for vessel classification societies to obtain recognition from the Coast Guard. This recognition is necessary in order for a classification society to become authorized to perform vessel inspection and certification functions delegated by the Coast Guard as described in this part.

§ 8.210 Applicability.

This subpart applies to all vessel classification societies seeking recognition by the Coast Guard.

§ 8.220 Recognition of a classification society.

(a) A classification society must be recognized by the Commandant before it may receive statutory authority delegated by the Coast Guard.

(b) In order to become recognized, a classification society must meet the requirements of § 8.230.

(c) A classification society found to meet the criteria for recognition will be notified in writing by the Commandant.

(d) If the Coast Guard determines that a classification society does not meet the criteria for recognition, the Coast Guard will provide the reason for this determination.

(e) A classification society may reapply for recognition upon correction of the deficiencies identified by the Coast Guard.

§ 8.230 Minimum standards for a recognized classification society.

(a) In order to receive recognition by the Coast Guard a classification society must:

(1) Establish that it has functioned as an international classification society for at least 30 years with its own class rules;

(2) Establish that is has a history of appropriate corrective actions in addressing vessel casualties and cases of nonconformity with class rules;

(3) Establish that it has a history of appropriate changes to class rules based on their application and the overall performance of its classed fleet;

(4) Have a total classed tonnage of at least 10 million gross tons;

(5) Have a classed fleet of at least 1,500 ocean-going vessels over 100 gross tons;

(6) Have a total classed tonnage of ocean-going vessels over 100 gross tons totaling no less than 8 million gross tons;

(7) Publish and maintain class rules in the English language for the design, construction and certification of ships and their associated essential engineering systems;

(8) Maintain written survey procedures in the English language;

(9) Have adequate resources, including research, technical, and managerial staff, to ensure appropriate updating and maintaining of class rules and procedures;

(10) Have adequate resources and geographical coverage to carry out all plan review and vessel survey activities associated with delegated functions as well as classification society requirements;

(11) Employ a minimum of 150 exclusive surveyors;

(12) Have adequate criteria for hiring and qualifying surveyors and technical staff;

(13) Have an adequate program for continued training of surveyors and technical staff;

(14) Have a corporate office in the United States that provides a continuous management and administrative presence;

(15) Maintain an internal quality system based on ANSI/ASQC Q9001 or an equivalent quality standard;

(16) Determine classed vessels comply with class rules, during appropriate surveys and inspection;

(17) Determine that attended vessels comply with all statutory requirements related to delegated functions, during appropriate surveys and inspection;

(18) Monitor all activities related to delegated functions for consistency and required end-results;

(19) Maintain and ensure compliance with a Code of Ethics that recognizes the inherent responsibility associated with delegation of authority;

(20) Not be under the financial control of shipowners or shipbuilders, or of others engaged commercially in the manufacture, equipping, repair or operation of ships;

(21) Not be financially dependent on a single commercial enterprise for its revenue;

(22) Not have any business interest in, or share of ownership of, any vessel in its classed fleet; and

(23) Not be involved in any activities which could result in a conflict of interest.

(b) Recognition may be granted after it is established that the classification society has an acceptable record of vessel detentions attributed to classification society performance under the Coast Guard Port State Control Program.

§ 8.240 Application for recognition.

(a) A classification society must apply for recognition in writing to the Commandant (G–MSE).

(b) An application must indicate which specific authority the classification society seeks to have delegated.

(c) Upon verification from the Coast Guard that the conditions of reciprocity have been met in accordance with § 8.120, the requesting classification society must submit documentation to establish that it meets the requirements of § 8.230.

§ 8.250 Acceptance of standards and functions delegated under existing regulations.

(a) Classification society class rules will only be accepted as equivalent to Coast Guard regulatory standards when that classification society has received authorization to conduct a related delegated function.

(b) A recognized classification society may not conduct any delegated function under this title until it receives a separate written authorization from the Commandant to conduct that specific function.

§ 8.260 Revocation of classification society recognition.

A recognized classification society which fails to maintain the minimum standards established in this part will be reevaluated and its recognized status revoked if warranted.

Subpart C—International Convention Certificate Issuance

§ 8.300 Purpose.

This subpart establishes options for vessel owners and operators to obtain required international convention certification through means other than those prescribed elsewhere in this chapter.

§ 8.310 Applicability.

This subpart applies to:

(a) Recognized classification societies; and

(b) All U.S. flag vessels that are certificated for international voyages

and are classed by a recognized classification society that is authorized by the Coast Guard to issue the applicable international certificate as specified in this subpart.

§ 8.320 Classification society authorization to issue international certificates.

(a) The Commandant may authorize a recognized classification society to issue certain international convention certificates. Authorization will be based on review of:

(1) Applicable class rules; and

(2) Applicable classification society procedures.

(b) The Coast Guard may delegate issuance of the following international convention certificates to a recognized classification society:

(1) International Load Line Certificate;

(2) International Tonnage Certificate (1969);

(3) SOLAS Cargo Ship Safety Construction Certificate;

(4) SOLAS Cargo Ship Safety Equipment Certificate;

(5) International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;

(6) International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk;

(7) International Maritime Organization (IMO) Mobile Offshore Drilling Unit Safety Certificate;

(8) MARPOL 73/78 International Oil Pollution Prevention Certificate; and

(9) MARPOL 73/78 International Oil Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

(c) The Coast Guard will enter into a written agreement with a recognized classification society authorized to issue international convention certificates. This agreement will define the scope, terms, conditions and requirements of that delegation. Conditions of these agreements are presented in § 8.130.

§ 8.330 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) In the event that a flag administration of a country changes conditions related to the authority that is delegated to ABS, the Commandant may modify or revoke the Coast Guard's authorization of that classification society that has its headquarters in that country.

(c) Certificates issued by a classification society which has had its authorization terminated will remain valid until the next classification society survey associated with that certificate is required or until the certificate expires, whichever occurs first.

Subpart D—Alternate Compliance Program

§ 8.400 Purpose.

This subpart establishes an alternative to subpart 2.01 of this chapter for certification of United States vessels.

§ 8.410 Applicability.

This subpart applies to:

(a) Recognized classification societies; and

(b) U.S. flag vessels that are certificated for international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to participate in the Alternate Compliance Program (ACP) as specified in this subpart and whose vessel type is authorized to participate in the ACP per the applicable subchapter of 46 CFR chapter I.

§ 8.420 Classification society authorization to participate in the Alternate Compliance Program.

(a) The Commandant may authorize a recognized classification society to participate in the ACP. Authorization will be based on a satisfactory review of:

(1) Applicable class rules; and

(2) Applicable classification society procedures.

(b) Authorization for a recognized classification society to participate in the ACP will require development of a U.S. Supplement to the society's class rules that meets the requirements of § 8.430 of this part, which must be accepted by the Coast Guard.

(c) A recognized classification society will be eligible to receive authorization to participate in the ACP only after it has performed a delegated function related to general vessel safety assessment, as defined in § 8.100, for a two-year period.

(d) If, after this two-year period, the Coast Guard finds that the recognized classification society has not demonstrated the necessary satisfactory performance or lacks adequate experience, the recognized classification society will not be eligible to participate in the ACP. The Coast Guard will provide the reason for this determination to the recognized classification society. A classification society may appeal the decision of the Coast Guard concerning recognition to the Commandant in writing in accordance with 46 CFR 1.03–15(h)(4).

(e) The Coast Guard will enter into a written agreement with a recognized classification society authorized to participate in the ACP. This agreement will define the scope, terms, conditions and requirements of the necessary delegation. Conditions of this agreement are presented in § 8.130.

§ 8.430 U.S. Supplement to class rules.

Prior to receiving authorization to participate in the ACP, a recognized classification society must prepare, and receive Commandant (G–MSE) approval of, a U.S. Supplement to the recognized classification society's class rules. This supplement must include all regulations applicable for issuance of a Certificate of Inspection (COI) which are not, in the opinion of the Commandant, adequately established by either the class rules of that classification society or applicable international regulations.

§ 8.440 Vessel enrollment in the Alternate Compliance Program.

(a) In place of compliance with other applicable provisions of this title, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a COI may submit the vessel for classification, plan review and inspection by a recognized classification society authorized by the Coast Guard to determine compliance with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG–3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by an authorized classification society under the ACP.

(c) Based on reports from an authorized classification society that a vessel complies with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports made by the authorized classification society indicate that the vessel meets applicable standards, the vessel owner or operator may appeal the OCMI decision as provided in subpart 1.03 of this chapter.

(d) If reports from an authorized classification society indicate that a vessel does not comply with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may decline to issue a certificate of inspection. If the OCMI declines to issue a certificate of inspection, the vessel owner or operator may:

(1) Correct the reported deficiencies and make arrangements with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the authorized classification society to the Chief, Office of Compliance, Commandant (G–MOC), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593–0001.

§ 8.450 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society to participate in the Alternate Compliance Program if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) In the event that a flag administration of a country changes conditions related to the authority that is delegated to ABS, the Commandant may modify or revoke the Coast Guard's authorization of that classification society that has its headquarters in that country.

(c) Certificates issued by a classification society which has had its authorization to participate in the Alternate Compliance Program terminated will be subject to the provisions of § 8.330.

(d) Owners or operators of vessels enrolled in the ACP and classed by a classification society that has its authority to participate in the ACP terminated must:

(1) Change the classification society for the vessel to a classification society that is authorized to participate in the ACP; or

(2) Disenroll the vessel from the ACP.

(e) The Coast Guard will provide guidance to a vessel owner affected by the revocation of a classification society's authority to participate in the ACP. This will include notification of when the action required under paragraph (d) of this section must be completed.

PART 31—INSPECTION AND CERTIFICATION

7. The authority citation for part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; 46 U.S.C. 3703, 5115, 8105; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

8. Revise § 31.01–3 to read as follows:

§ 31.01–3 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, a list of authorized classification societies is available from Commandant (G–MSE). Approved classification society rules and supplements are contained in 46 CFR § 8.110(b).

PART 69—MEASUREMENT OF VESSELS

9. The authority citation for part 69 continues to read as follows:

Authority: 46 U.S.C. 2301, 14103; 49 CFR 1.46.

10. Amend § 69.27 by redesignating paragraphs (b)(3), (b)(4) and (b)(5) as paragraphs (b)(4), (b)(5), and (b)(6), respectively and by adding a new paragraph (b)(3) to read as follows:

§ 69.27 Delegation of authority to measure vessels.

* * * * *

(b) * * *

(3) In lieu of the requirements in paragraphs (b)(1) and (2) of this section, is a recognized classification society under the requirements of 46 CFR part 8.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

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

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46.

12. Revise § 71.15–5 to read as follows:

§ 71.15–5 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, a list of authorized classification societies is available from Commandant (G–MSE). Approved classification society rules and supplements are contained in 46 CFR 8.110(b).

PART 91—INSPECTION AND CERTIFICATION

13. The authority citation for part 91 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

14. Revise § 91.15–5 to read as follows:

§ 91.15–5 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, a list of authorized classification societies is available from Commandant (G–MSE). Approved classification society rules and supplements are contained in 46 CFR 8.110(b).

PART 107—INSPECTION AND CERTIFICATION

15. The authority citation for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; 46 U.S.C 5115; 49 CFR 1.45, 1.46; § 107.05 also issued under authority of 44 U.S.C. 3507.

16. Revise § 107.205 to read as follows:

§ 107.205 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate

Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, a list of authorized classification societies is available from Commandant (G-MSE). Approved classification society rules and supplements are contained in 46 CFR 8.110(b).

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

17. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.110 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

18. In § 153.12, revise the introductory paragraph to read as follows:

§ 153.12 IMO certificates for United States ships.

Either a classification society authorized under 46 CFR part 8, or the Officer in Charge, Marine Inspection, issues a United States ship an IMO Certificate endorsed to allow the carriage of a hazardous material or NLS cargo in Table 1 of this part if the following requirements are met:

* * * * *

PART 154—SAFTEY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

19. The authority citation for part 154 continues to read as follows:

Authority: 46 U.S.C. 3703, 9101; 49 CFR 1.46.

20. Revise § 154.19(a) introductory text to read as follows:

§ 154.19 U.S. flag vessel: IMO certificate issuance.

(a) Either a classification society authorized under 46 CFR part 8, or the Coast Guard Officer in Charge, Marine Inspection, issues an IMO Certificate to a U.S. flag vessel when requested by the owner or representative, if—

* * * * *

Dated: December 17, 1997.

R. C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–33477 Filed 12–23–97; 8:45 am]

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Part VIII

Department of Education

The International Research and Studies Program; Publication of the 1997 Annual Report; Notice

DEPARTMENT OF EDUCATION

The International Research and Studies Program; Annual Report

AGENCY: Department of Education.

ACTION: Publication of the 1997 annual report.

SUMMARY: Section 606 of the Higher Education Act of 1965 (HEA), as amended, authorizes the Secretary of Education to provide assistance to conduct research, studies, and surveys, and develop specialized instructional materials that further the purposes of Part A of Title VI of the HEA.

Purpose

Under the International Research and Studies Program, the Secretary of Education awards grants and contracts for—

(a) Studies and surveys to determine the needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(b) Studies and surveys to assess the use of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(c) Comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(d) Research on more effective methods of providing instruction and achieving competency in foreign languages;

(e) The development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

(f) The application of performance tests and standards across all areas of foreign language instruction and classroom use.

1997 Program Activities

In fiscal year 1997, 21 new grants ($1,822,145) and 12 continuation grants ($962,523) were awarded under the International Research and Studies Program. All of these grants are active currently and will be monitored through progress reports submitted by grantees. Grantees have 90 days after the expiration of the grant to submit the products resulting from their research to the Department of Education for review and acceptance.

Completed Research

The first grants under the authority of section 606, previously authorized under section 605, were awarded in fiscal year 1981. Most of the research projects funded in FY 1981 through FY 1993 have been completed and reported in previous annual reports. However, a number of completed research projects resulting from grants made during prior fiscal years have been received during the past year. A listing of this completed research follows. Grants from fiscal years 1994, 1995, and 1996 are still ongoing, or have recently expired.

Title	Author/location
Analysis of pre- and post-Program Performance Data for Participants in the American Council of Teachers of Russian (ACTR) Semester Programs of Advanced Russian Study in Moscow and St. Petersburg.	ACTR and Bryn Mawr College, 1776 Massachusetts Avenue NW, Washington, DC 20036, Dan Davidson.
The Foreign Language and International Studies Program of Title VI of the Higher Education Act Part A, Section 606: An Assessment Study.	Georgetown University, Department of Linguistics, 37th and O Streets NW., Washington, DC 20057, Richard T. Thompson.
Learning Strategies in Elementary Schools Language Immersion Programs.	Georgetown University, Language Research Projects, 2600 Virginia Avenue NW., Washington, DC 20037–1905, Anna Uhl Chamot.
Teaching Materials Relating to the Middle East for Middle and Secondary School Teachers.	Emory University, Middle East Research, Program, 203 Bowden Hall, Atlanta, GA 30322, Kenneth W. Stein.
Learner's Dictionary of Haitian Creole	Indiana University, Ballantine Hall 604, Bloomington, IN 47405, Albert Valdman.
A Reference Grammar of Hausa	Indiana University, Institute for the Study of Nigerian Languages and Cultures, Memorial Hall 215, Bloomington, IN 47405–6701, Paul Newman.
Business Arabic—Language, Culture and Communication. Intermediate and Advanced Levels.	The University of Michigan, Department of Near Eastern Studies, 3,074 Frieze Building, Ann Arbor, MI 48109–1285, Raji Rammuny.
Teaching about the Americas: Electronic Curriculum	University of New Mexico, Latin American Institute, 801 Yale NE, Albuquerque, NM 87131–1016, Roma Arellano and Lisa Falk.
Foreign Language Registrations in U.S. Colleges and Universities Fall 1995.	Modern Language Association, 10 Astor Place, New York, NY 10003, Richard Brod.
Foreign Language Enrollments in Public Secondary Schools Fall 1994	American Council on the Teaching of Foreign Languages, 6 Executive Plaza, Yonkers, NY 10701, Jamie B. Draper and June H. Hicks.
Textbook Component of a Russian Language Video Course *When in Russia*.	State University of New York at Albany, Office for Research Administration 216, Albany, NY 12222, Sophia Lubensky.
The China Curriculum Development and Dissemination Project	The American Forum for Global Education, 120 Wall Street Suite 2600, New York, NY 10005, Hazel Sara Greenberg.
Implementation and Evaluation of an Innovative Japanese Program for Elementary School (FLES).	Carnegie Mellon University, Department of Modern Languages, Baker Hall 160, Pittsburgh, PA 15213–3890, Richard Tucker and Richard Donato.
Competency-Based Materials for the Teaching of Reading in Indonesian.	University of Wisconsin, Department of South Asian Studies, Madison, WI 53706, Ellen Rafferty.

Title	Author/location
Development of Instructional Materials about Africa for Elementary and Secondary School Levels of Education.	University of Wisconsin, African Studies Program, 205 Ingraham Hall, 1155 Observatory Drive, Madison, WI 53706, James Delehanty.

To obtain a copy of a completed study, contact the author at the given address.

FURTHER INFORMATION: For a copy of this report and further information regarding the International Research and Studies Program, write to Jose L. Martinez, Program Officer, International Education and Graduate Programs Service, United States Department of Education, 600 Independence Avenue, S. W., Washington, DC 20202–5247. Telephone number: (202) 401–9784.

Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternative format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. *Electronic Access to This Document*

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Program Authority: 20 U.S.C.

Dated: December 16, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–33598 Filed 12–23–97; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
December 24, 1997

Part IX

Department of Education

National Institute on Disability and Rehabilitation Research; Public Meeting and Request for Comments; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Meeting

AGENCY: Department of Education.

ACTION: Notice of Public Meeting and Request for Comments.

SUMMARY: The National Institute on Disability and Rehabilitation Research (NIDRR) is interested in gathering information from consumers, families, service providers, advocacy organizations, community groups, State agencies, and other stakeholders on existing and future needs for assistive technology services and devices, systemic barriers to meeting those needs, and successful approaches that have been used to remove barriers to the acquisition of assistive technology services and devices for individuals with disabilities.

NIDRR invites interested parties to submit written comments or present oral comments at a public meeting on current assistive technology needs and issues, as well as future directions for meeting those needs. The purpose of the meeting is to help formulate future policy related to assistive technology for persons with disabilities.

DATE AND TIME: The public meeting is scheduled to be held on Thursday, January 15, 1998 from 9:30 a.m. to 4:00 p.m.

ADDRESSES: The public meeting will be held at the Crystal Gateway Marriott at 1700 Jefferson Davis Highway, Arlington, Virginia.

COMMENTS: Persons desiring to provide oral comments at the public meeting should telephone Ms. Nell Bailey on (703) 524–6686, ext. 305. Individuals who use a telecommunications device for the deaf (TDD) may call 703–524–6639. Requests to provide oral comments may also be sent through the Internet: nbailey@resna.org.

NIDRR invites written comments from those who will be unable to provide oral comments at the public meetings. Written comments should be received by April 30, 1998. Written comments should be addressed to Ms. Nell Bailey, RESNA Technical Assistance Project, 1700 N. Moore St., Suite 1540, Arlington, VA 22209. Written comments may also be sent through the Internet: nbailey@resna.org.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (e.g. interpreting service, assistive listening device, or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

FOR FURTHER INFORMATION CONTACT: Nell Bailey. Telephone: (703) 524–6686, ext. 305. Individuals who use a telecommunications device for the deaf (TDD) may call (703) 524–6639.

Individuals with disabilities who plan to attend the meeting and require reasonable accommodations should submit the request two week in advance of the meeting to Nell Bailey. Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Nell Bailey.

SUPPLEMENTARY INFORMATION: There will be additional public meetings in other regions of the country during the months of February, March and April, 1998. The dates and locations of these meetings will be announced in a separate **Federal Register** notice.

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Note: The official version of a document is the document published in the **Federal Register**.

Dated: December 18, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–33599 Filed 12–23–97; 8:45 am]

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federal register

Wednesday
December 24, 1997

Part X

The President

Memorandum of December 19, 1997—Delegation of Authority Under Section 1212 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)

Federal Register
Vol. 62, No. 247
Wednesday, December 24, 1997

Presidential Documents

Title 3—

The President

Memorandum of December 19, 1997

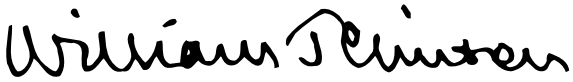
Delegation of Authority Under Section 1212 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)

Memorandum for the Secretary of Commerce

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate the functions and authorities conferred upon the President by section 1212 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) to the Secretary of Commerce, who is authorized to redelegate these functions and authorities consistent with applicable law.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to published this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, December 19, 1997.

[FR Doc. 97–33838
Filed 12–23–97; 8:45 am]
Billing code 3510–BP–M

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Federal Register

Vol. 62, No. 247

Wednesday, December 24, 1997

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FEDERAL REGISTER PAGES AND DATES, DECEMBER

63441–63626 1
63627–63824 2
63825–64130 3
64131–64262 4
64263–64510 5
64511–64676 8
64677–65004 9
65005–65196 10
65197–65308 11
65309–65592 12
65593–65740 15
65741–65990 16
65991–66250 17
66251–66494 18
66495–66812 19
66813–66972 22
66973–67256 23
67257–67548 24

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7056 64127
7057 64131
7058 65003
7059 65309
7060 65987
7061 66251

Executive Orders:
13069 65989
13070 66493

Administrative Orders:
Presidential Determinations:
No. 98–4 of November 14, 1997 63823
No. 98–5 of November 17, 1997 63619
No. 96–6 of December 2, 1997 65005
No. 96–7 of December 5, 1997 66253
No. 96–8 of December 5, 1997 66255

5 CFR

213 63627
315 63627
410 63630
531 65311
532 .....66973, 67257, 67258
551 67238

Proposed Rules:
831 67295
842 67295
870 67295
890 67295
591 63630
1201 66813

7 CFR

2 65593
17 63606
58 66257
247 64511
301 .....64133, 64263, 64677
319 65007
320 65007
330 65007
352 65007
401 .....63631, 65313
422 65321
437 65338
443 65344
454 63631
457 .....63631, 63633, 65130, 65313, 65321, 65338, 65344, 65741, 65991, 67117
927 66495
1209 66973
1412 63441
1944 67216
2003 67258

Proposed Rules:
51 66033
70 63471
205 65850
610 64174
729 63678
800 66036
810 66036
966 66312
980 66312
985 67297
1301 65226

8 CFR

213a 64048
299 64048

9 CFR

50 66259
78 .....64134, 65596
91 64265
93 64265
94 .....65747, 65999

Proposed Rules:
85 65630
381 64767
441 64767

10 CFR

30 63634
32 63634
50 .....63825, 66977
70 63825
73 63640
1008 67518
1703 66815

Proposed Rules:
40 65039
50 .....63892, 63911, 66038
70 63911

11 CFR

Proposed Rules:
100 66832
102 67300
104 67300
108 67300
114 .....65040, 66832

12 CFR

8 64135
202 66412
203 66259
226 .....63441, 66179
265 64996
506 .....66260, 67117
516 64138
543 64138
544 .....66260, 67117
545 .....64138, 66260, 67117
552 .....64138, 66260, 67117
556 64138
559 .....66260, 67117

560.....66260, 67117
561.....66260, 67117
563 .....64138, 66260, 67117
565.....66260, 67117
567.....66260, 67117
575.....66260, 67117
614.....63644, 66816
703.....64146
704.....64148
790.....65197
791.....64266
934.....65197
960.....66977
1806.....64440

Proposed Rules:

225.....64997
226.....64769
404.....64177
405.....64177
708a.....64185
708b.....64187

14 CFR

39 .....63622, 63828, 63830, 63831, 63835, 63836, 64268, 64511, 64513, 64514, 64517, 64519, 64680, 65009, 65011, 65198, 65352, 65355, 65597, 65600, 65601, 65603, 65604, 65749, 65750, 66001, 66264, 66266, 66268, 66269, 66271, 66498, 66500, 66502, 66506, 66508, 66511, 66512, 66980
71 .....64148, 64150, 64151, 64152, 64268, 64268, 64269, 64271, 64272, 64273, 64521, 65012, 65013, 65014, 65015, 65201, 65357, 65358, 65606, 66179, 66818, 67265, 67266, 67267
73 .....65359, 65360, 66002, 67268, 67269
91.....66248
93.....66248
95 .....65016, 65361, 65363
97 .....63447, 63449, 63451
121.....65202, 66248
135.....66248
255.....63837, 66272
1260.....63452

Proposed Rules:

39 .....63473, 63475, 63476, 63624, 63912, 63914, 64523, 64775, 64777, 64779, 64780, 64782, 64784, 64785, 64787, 65227, 65228, 65230, 65231, 65233, 65768, 66315, 66317, 66560, 66561, 66562, 66563, 66565, 66567, 67300, 67303
71 .....63916, 63917, 64321, 64321, 64322, 64323, 64525, 65040, 65041, 65308, 65383, 65631, 66838, 66840

15 CFR

295.....64682
922.....66003

Proposed Rules:

806.....65043
960.....65384

17 CFR

15.....65203
230.....64968, 65043
239.....64968
270.....64968
274.....64687, 64968

Proposed Rules:

1.....66569
33.....66569

18 CFR

35.....64688
37.....64715
401.....64154

19 CFR

4.....66521

20 CFR

255.....64161
340.....64273
404.....64274
422.....64274

Proposed Rules:

10.....67120
25.....67120
211.....64188
422.....63681

21 CFR

5.....67270
101 .....63647, 63653, 64634, 66275
179.....64102, 64107
211.....66522
500.....66982
520.....65020
522.....66983
524.....65752
558 .....66522, 66984, 66985, 66986, 67273
806.....67274
866.....66003

Proposed Rules:

200.....64048
801.....67011
803.....67011
804.....67011
806.....67011
807.....67011
808.....65384, 66179
810.....67011
820.....67011
821.....67011
876.....65770
1002.....67011
1020.....65235, 67011
1308.....64526

22 CFR

120.....67274
123.....67274
124.....67274
126.....67274
127.....67274
129.....67274

Proposed Rules:

22.....63478
51.....63478
53.....63478

23 CFR

1327.....63655

Proposed Rules:

655.....64324

24 CFR

100.....66424
103.....66424
201.....65180
202.....65180
203.....65180
570.....64634
888.....64521

Proposed Rules:

180.....66488

25 CFR

Proposed Rules:

514.....65775

26 CFR

25.....66987
54.....66932
602.....66987

Proposed Rules:

1.....64190, 66575
31.....67304
52.....67013
54.....66967

28 CFR

0.....63453
540.....65184, 65196

29 CFR

520.....64956
521.....64956
522.....64956
523.....64956
527.....64956
1614.....63847
1910.....65203, 66275
2590.....66932
4011.....65607
4022.....65607
4044.....65609, 65610

Proposed Rules:

1910.....65388
2550.....66908
4022.....66319

30 CFR

206.....65753
250.....67278
251.....67278
901.....66819

Proposed Rules:

56.....65777, 67013
57 .....64789, 65777, 67013
62.....65777, 67013
70.....65777, 67013
71.....65777, 67013
75.....64789
913.....67014
917.....63684, 65044
926.....63685, 64327
936.....65632
946.....67016

31 CFR

500.....64720

Proposed Rules:

356.....64528

32 CFR

175.....66523
199.....66989, 66992
318.....67291
320.....65020

Proposed Rules:

199.....64191, 67018
901.....63485
989.....67305

33 CFR

96.....67492
100.....65021, 66995
117 .....63847, 66005, 66006
151.....67526
160.....65203
165.....65022

Proposed Rules:

62.....67031
66.....67031
117.....66039

36 CFR

701.....64279

Proposed Rules:

1.....63488
14.....63488
242.....66216
327.....64192
1190.....67320
1191.....67320

37 CFR

202.....63657, 66822

Proposed Rules:

253.....63502, 65777
255.....63506, 65778

38 CFR

4.....65207
17.....64722
21 .....63847, 63848, 66277
36.....63454

Proposed Rules:

21.....66320
20.....64790

39 CFR

111.....63850
255.....66996
262.....64280
265.....64280
954.....66997

40 CFR

9.....66278
52 .....63454, 63456, 63658, 64284, 64522, 64722, 64725, 65224, 65611, 65613, 66007, 66279, 66822, 66998, 67000, 67002, 67004, 67006
58.....67009
62.....65616
63.....64736, 65022
64.....63662
70.....63662
71.....63662
72.....66278
73.....66278
74.....66278
75.....66278
77.....66278
78.....66278
80.....63853
81 .....64284, 64725, 65025
180 .....63662, 63858, 64048, 64287, 64294, 65030, 65365, 65367, 65369, 66008, 66014, 66020
185 .....64048, 64284, 64287, 66020
186.....64048, 66020
261.....63458
264.....64636, 64795
265.....64636
268.....64504
270.....64636

300 65225
721 64738
Proposed Rules:
51 ....64532, 66841
52 ....63687, 64329, 64543, 647389, 65046, 65634, 66040, 66042, 66043, 66046, 66576, 66843, 67034, 67035, 67320
62 65635
63 ....65049, 66049
80 63918
81 ....63687, 66578
85 66841
112 63812
144 67035
146 67035
194 64327
441 ....66182, 67323
721 64738
799 ....67036, 67038, 67466

41 CFR

51–2 66527
51–4 66527
51–6 66527
60–1 66970
60–999 66970
105–60 64740
301 63798

42 CFR

416 66726
417 63669
482 66726
483 67174
485 66726
489 66726
Proposed Rules:
1001 ....63689, 65049

43 CFR

418 66442
3740 65376
3810 65376
3820 65376
Proposed Rules:
4 64544

44 CFR

61 66026

45 CFR

Ch. XI 66529
146 66932
205 64301
232 64301
233 64301
235 64301
250 64301
251 64301
255 64301
256 64301
257 64301
1110 66825
Proposed Rules:
1302 65778

46 CFR

1 67526
2 67492
8 67526
31 ....67492, 67526
69 67526
71 ....67492, 67526
91 ....67492, 67526
107 ....67492, 67526
114 64303
115 67492
116 64303
117 64303
118 64303
121 64303
122 64303
126 67492
153 67526
154 67526
175 ....64303, 65739, 67492
176 67492
177 64303
178 64303
180 64303
185 64303
189 67492
514 63463

47 CFR

20 63864
22 63864
25 64167
43 64741
52 64759
54 ....65036, 65389
63 64741
64 ....64741, 64759
69 ....65619, 66029
73 ....63674, 65392, 65764, 65765, 66766, 66030, 66031, 66294, 66295, 66530, 66826
74 65392
Proposed Rules:
1 ....65780, 66321
21 65780
32 65053
73 ....63690, 65781, 65782, 66323, 66324
74 65780

48 CFR

Ch. I 64912, 64952
1 ....64913, 64940
2 64914
4 ....64915, 64916
5 64914
6 64916
7 64914
8 ....64914, 64916
9 64914
12 ....64914, 64916
13 ....64914, 64916
16 ....64914, 64916
17 64914
19 ....64914, 64916, 64940
22 64914
25 64929
29 64930
31 ....64930, 64931, 64932
32 ....64914, 64916
33 ....64914, 64933
34 64914
37 64914
38 64914
39 64914
41 64916
42 ....64915, 64931, 64934, 64940
43 64916
45 64914
46 64914
47 64936
49 64916
51 64914
52 ....64914, 64915, 64916
53 ....64914, 64916, 64934, 64936, 64940
5231 66826
Proposed Rules:
204 65782
1843 64545
1852 64545

49 CFR

171 ....65188, 66900
172 66898
174 66898
175 66898
176 66898
177 66898
194 67292
199 67293
219 ....63464, 63675
225 63675
240 63464
1241 65378
Proposed Rules:
Ch. X 64193
172 66903
174 66903
175 66903
176 66903
177 66903
195 65635
213 65401
243 65479
572 64546

50 CFR

17 ....64306, 66295
20 63608
222 63467
285 66828
600 66531
622 ....63677, 66304, 67010
648 ....63872, 64765, 66304
660 63876
679 ....63877, 63878, 63880, 64760, 65379, 65622, 65626, 66031, 66311, 66829
Proposed Rules:
14 64335
17 ....64337, 64340, 64799, 64800, 65237, 65783, 65787, 66325, 66583, 67041, 67324
23 64347
100 66216
226 66584
227 66325
229 65402
425 66325
600 ....65055, 66844
622 65056
648 ....65055, 66844
660 66049
679 ....63690, 65402, 65635, 65638, 65644, 67041

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 24, 1997

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Pears (Bartlett) grown in Oregon et al.; published 11-24-97

AGRICULTURE DEPARTMENT

Farm Service Agency

Organization, functions, and authority delegations:

Rural Development Mission Area; published 12-24-97

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Organization, functions, and authority delegations:

Rural Development Mission Area; published 12-24-97

AGRICULTURE DEPARTMENT

Rural Housing Service

Organization, functions, and authority delegations:

Rural Development Mission Area; published 12-24-97

AGRICULTURE DEPARTMENT

Rural Utilities Service

Organization, functions, and authority delegations:

Rural Development Mission Area; published 12-24-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Decoquinate and bacitracin zinc with roxarsone; published 12-24-97

Organization, functions, and authority delegations:

Center for Devices and Radiological Health; published 12-24-97

PERSONNEL MANAGEMENT OFFICE

Employment:

Reduction in force—

Retention service credit based on job performance, and other retention rights; published 11-24-97

STATE DEPARTMENT

International traffic in arms; miscellaneous amendments; published 12-24-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Walnuts grown in California; comments due by 12-29-97; published 10-30-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Fresh market tomatoes, etc.; comments due by 12-29-97; published 12-2-97

COMMERCE DEPARTMENT

Export Administration Bureau

Export licensing:

Commerce control list—

Specially designed; definition; comments due by 12-29-97; published 10-29-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering sea and Aleutian Islands groundfish; comments due by 1-2-98; published 12-17-97

Caribbean, Gulf and South Atlantic fisheries—

Gulf of Mexico reef fish; comments due by 12-29-97; published 12-10-97

Carribbean, Gulf, and South Atlantic fisheries—

Snapper grouper fishery; comments due by 12-29-97; published 10-30-97

Magnuson Act provisions; comments due by 12-29-97; published 12-10-97

Land Remote Sensing Policy Act of 1992:

Private land remote-sensing space systems; licensing provisions; comments due by 1-2-98; published 11-3-97

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Fuels and fuel additives—

Northern Mariana Islands; anti-dumping and detergent additization requirements for conventional gasoline; exemption petition; comments due by 1-2-98; published 12-3-97

Northern Mariana Islands; anti-dumping and detergent additization requirements for conventional gasoline; exemption petition; comments due by 1-2-98; published 12-3-97

Air quality implementation plans; approval and promulgation; various States:

Louisiana; comments due by 1-2-98; published 12-2-97

Air quality planning purposes; designation of areas:

Alaska; comments due by 1-2-98; published 12-2-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile; comments due by 12-29-97; published 10-29-97

Avermectin; comments due by 12-29-97; published 10-29-97

Lambda-cyhalothrin; comments due by 12-29-97; published 10-29-97

Tebuconazole; comments due by 12-29-97; published 10-29-97

Water programs:

Oil pollution prevention and response; non-transportation related onhore and offshore facilities; comments due by 1-2-98; published 12-2-97

FARM CREDIT ADMINISTRATION

Farm credit system:

Loan policies and operations—

Loan sales into secondary markets; relief from minimum stock purchase and borrower rights requirements; comments due by 1-2-98; published 12-2-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Arizona; comments due by 12-29-97; published 11-19-97

Mississippi; comments due by 12-29-97; published 11-19-97

North Carolina et al.; comments due by 12-29-97; published 11-19-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Salt, salt substitutes, seasoning salt (e.g., garlic salt); serving sizes; reference amount; comments due by 1-2-98; published 12-2-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:

Physician fee schedule (1998 CY); payment policies and relative value unit adjustments and clinical psychologist fee schedule; establishment; comments due by 12-30-97; published 10-31-97

Physician fee schedule (1998 CY); payment policies and relative value unit adjustments

Practice expense relative value units adjustments; implementation delay; comments due by 12-30-97; published 10-31-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Findings on petitions, etc.—

Northern goshawk; comments due by 12-29-97; published 9-29-97

NUCLEAR REGULATORY COMMISSION

Production and utilization facilities; domestic licensing:

Light-water power reactors; criticality accident requirements; comments due by 1-2-98; published 12-3-97

Production and utilization facitilities; domestic licensing:

Light-water power reactors; criticality accident requirements; comments due by 1-2-98; published 12-3-97

PERSONNEL MANAGEMENT OFFICE

Absence and leave:

Emergency leave transfer program; comments due by 1-2-98; published 11-3-97

Excepted service:

Student educational employment program; comments due by 1-2-98; published 12-2-97

Health benefits, Federal employees:

Disenrollment; comments due by 12-29-97; published 11-28-97

SECURITIES AND EXCHANGE COMMISSION

Securities:

Shareholder proposals; comments due by 1-2-98; published 11-25-97

Small entities; penalty-reduction policy statement; comments due by 12-31-97; published 4-4-97

STATE DEPARTMENT

Consular services; fee schedule:

Adjustments; comments due by 12-31-97; published 12-1-97

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

Mississippi River, LA; regulated navigation area; comments due by 12-29-97; published 10-30-97

TRANSPORTATION DEPARTMENT

Privacy Act; implementation; comments due by 12-29-97; published 11-28-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Air tour operators; Hawaii; comments due by 12-29-97; published 10-30-97

Air traffic operating and flight rules, etc.:

Grand Canyon National Park, CO; special flight rules in vicinity (SFAR No. 50-2)—

Noise limitations; comments due by 12-30-97; published 10-31-97

Airworthiness directives:

Airbus; comments due by 12-29-97; published 11-28-97

Airbus Industrie; comments due by 12-31-97; published 12-1-97

Boeing; comments due by 12-29-97; published 10-28-97

Dornier; comments due by 12-29-97; published 11-28-97

Empresa Brasileira de Aeronautica S.A.; comments due by 12-29-97; published 11-28-97

Extra Flugzeugbau GmbH; comments due by 12-29-97; published 10-23-97

Fairchild; comments due by 1-2-98; published 11-3-97

Fokker; comments due by 12-29-97; published 11-28-97

General Electric Co.; comments due by 12-30-97; published 10-31-97

Airworthiness standards:

Special conditions—

Learjet Inc. model 55 airplane; comments due by 12-29-97; published 11-12-97

Atlantic high offshore airspace area; comments due by 1-2-98; published 11-18-97

Class E airspace; comments due by 12-29-97; published 11-20-97

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Pipeline safety:

Leak detection industry standard; incorporation by reference; comments due by 12-29-97; published 10-29-97

TREASURY DEPARTMENT

Customs Service

Export control:

Used motor vehicles; exportation requirements; comments due by 12-29-97; published 10-28-97

LIST OF PUBLIC LAWS

The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

Note: A Cumulative List of Public Laws will be published in the **Federal Register** on December 31, 1997.

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